This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

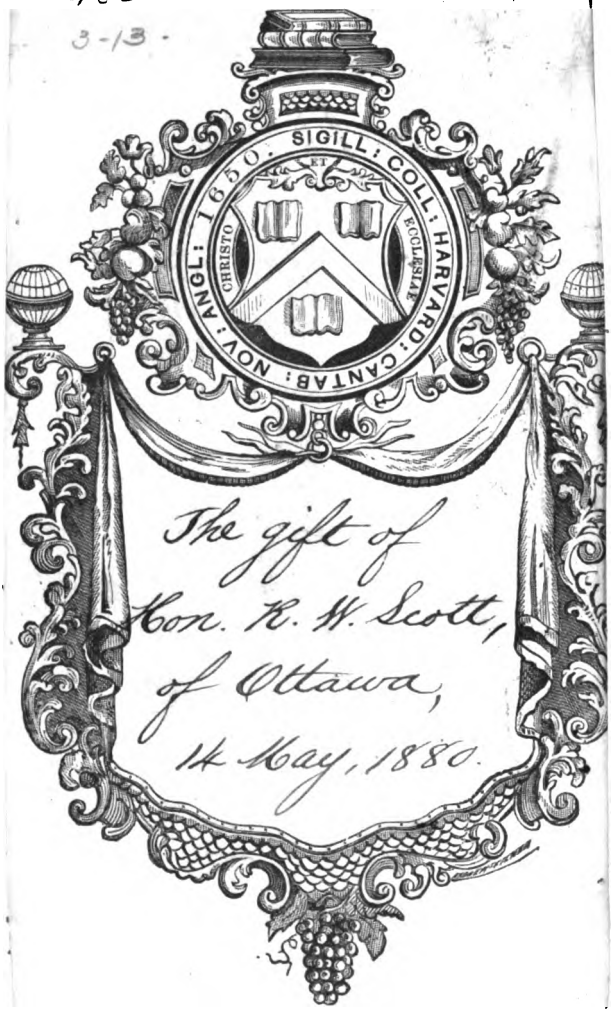
About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

WIDENER LIBRARY
HX G9E2 5

Digitized by Google

4367
3-13



Can. Doc. 10.9.16

PRESENTED

— BY —

Hon R. W. Scott

TO THE

Library of the University of Harvard College,

CAMBRIDGE, Mass.

(through HENRY J. MORGAN, Esquire, of Ottawa, Canada,)

878.

No.

Digitized by Google

Digitized by Google

Digitized by Google

ANNO REGNI
VICTORIÆ,
BRITANNIARUM REGINÆ,
TRICESIMO ET TRICESIMO-PRIMO.

AT a Parliament begun and holden, at *Westminster*, the first day of *February*, *Anno Domini*, 1866, in the twenty-ninth year of the Reign of Our Sovereign Lady Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, *Queen*, Defender of the Faith, and from thence continued by several Prorogations to the Fifth day of *February*, 1867.

Being the SECOND Session of the NINETEENTH Parliament of the United Kingdom of Great Britain and Ireland.

OTTAWA:
PRINTED BY MALCOLM CAMERON,
Law Printer to the Queen's Most Excellent Majesty.

1867.

Digitized by Google

Com. Doc. 10.9.16

V

1880, May 14.
Gift of
Hon. R. W. Scott.

1369
3.12

Digitized by Google

ANNO TRICESIMO ET TRICESIMO-PRIMO

VICTORIÆ REGINÆ.

****

CAP. III.

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith.

[29*th March* 1867.]

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of British North America:

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I.—PRELIMINARY.

1. This Act may be cited as The British North America Act, 1867. Short Title.

Digitized by Google

Application of Provisions referring to the Queen.

2. The Provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

II.—Union.

Declaration of Union.

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honorable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the Name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.

Construction of subsequent Provisions of Act.

4. The subsequent Provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's Proclamation; and in the same Provisions, unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.

Four Provinces.

5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

Provinces of Ontario and Quebec.

6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form Two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of Nova Scotia and New Brunswick.

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

Decennial Census.

8. In the general Census of the Population of Canada which is hereby required to be taken in the Year One thousand eight hundred and seventy-one, and in every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

III.—Executive Power.

Declaration of Executive Power in the Queen.

9. The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.

10.

Digitized by Google

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of Canada on behalf and in the Name of the Queen, by whatever Title he is designated.

Application of Provisions referring to Governor General.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General.

Constitution of Privy Council for Canada.

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exerciseable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Members thereof, or by the Governor General individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

All Powers under Acts to be exercised by Governor General with Advice of Privy Council or alone.

13. The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for Canada.

Application of Provisions referring to Governor General in Council.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from Time to Time to appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that Capacity to exercise during the Pleasure of the Governor General such of the Powers, Authorities, and Functions of the Governor General as the Governor General deems

Power to Her Majesty to authorize Governor General to appoint Deputies.

Digitized by Google

deems it necessary or expedient to assign to him or them, subject to any Limitations or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies shall not affect the Exercise by the Governor General himself of any Power, Authority, or Function.

Command of Armed Forces to continue to be vested in the Queen.

15. The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

Seat of Government of Canada.

16. Until the Queen otherwise directs the Seat of Government of Canada shall be Ottawa.

IV.—Legislative Power.

Constitution of Parliament of Canada.

17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Privileges, &c. of Houses.

18. The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the Members thereof respectively shall be such as are from Time to Time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.

First Session of the Parliament of Canada.

19. The Parliament of Canada shall be called together not later than Six Months after the Union.

Yearly Session of the Parliament of Canada.

20. There shall be a Session of the Parliament of Canada once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Parliament in one Session and its first Sitting in the next Session.

The Senate.

Number of Senators.

21. The Senate shall, subject to the Provisions of this Act, consist of Seventy-two Members, who shall be styled Senators.

Representation of Provinces in Senate.

22. In relation to the Constitution of the Senate, Canada shall be deemed to consist of Three Divisions—

1. Ontario;

2. Quebec;

3. The Maritime Provinces, Nova Scotia and New Brunswick; which Three Divisions shall (subject to the Provisions of this Act)

Digitized by Google

Act) be equally represented in the Senate as follows: Ontario by Twenty-four Senators; Quebec by Twenty-four Senators; and the Maritime Provinces by Twenty-four Senators, Twelve thereof representing Nova Scotia, and Twelve thereof representing New Brunswick.

In the Case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to Chapter One of the Consolidated Statutes of Canada.

23. The Qualification of a Senator shall be as follows:— Qualifications of Senator.

(1.) He shall be of the full Age of Thirty Years:

(2.) He shall be either a Natural-born Subject of the Queen, or a Subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of One of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union:

(3.) He shall be legally or equitably seised as of Freehold for his own Use and Benefit of Lands or Tenements held in free and common Socage, or seised or possessed for his own Use and Benefit of Lands or Tenements held in Franc-alleu or in Roture, within the Province for which he is appointed, of the Value of Four thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages, and Incumbrances due or payable out of or charged on or affecting the same:

(4.) His Real and Personal Property shall be together worth Four thousand Dollars over and above his Debts and Liabilities:

(5.) He shall be resident in the Province for which he is appointed:

(6.) In the Case of Quebec he shall have his Real Property Qualification in the Electoral Division for which he is appointed, or shall be resident in that Division:

24. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified Persons to the Senate; and, subject to the Provisions Summons of Senator.

Digitized by Google

Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator.

Summons of First Body of Senators.

25. Such Persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their Names shall be inserted in the Queen's Proclamation of Union.

Addition of Senators in certain cases.

26. If at any Time on the Recommendation of the Governor General the Queen thinks fit to direct that Three or Six Members be added to the Senate, the Governor General may by Summons to Three or Six qualified Persons (as the Case may be), representing equally the Three Divisions of Canada, add to the Senate accordingly.

Reduction of Senate to normal number.

27. In case of such Addition being at any Time made the Governor General shall not summon any Person to the Senate, except on a further like Direction by the Queen on the like Recommendation, until each of the Three Divisions of Canada is represented by Twenty-four Senators and no more.

Maximum number of Senators.

28. The Number of Senators shall not at any Time exceed Seventy-eight.

Tenure of place in Senate.

29. A Senator shall, subject to the Provisions of this Act, hold his Place in the Senate for Life.

Resignation of Place in Senate.

30. A Senator may by Writing under his Hand addressed to the Governor General resign his Place in the Senate, and thereupon the same shall be vacant.

Disqualification of Senators.

31. The Place of a Senator shall become vacant in any of the following Cases:—

(1.) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate:

(2.) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power:

(3.) If he is adjudged Bankrupt or Insolvent, or applies for the Benefit of any Law relating to Insolvent Debtors, or becomes a public Defaulter:

(4.) If he is attainted of Treason or convicted of Felony or of any infamous Crime:

(5.)

Digitized by Google

(5.) If he ceases to be qualified in respect of Property or of Residence; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of the Government of Canada while holding an Office under that Government requiring his Presence there.

32. When a Vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy. Summons on Vacancy in Senate.

33. If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate. Questions as to Qualifications and Vacancies in Senate.

34. The Governor General may from Time to Time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead. Appointment of Speaker of Senate.

35. Until the Parliament of Canada otherwise provides, the Presence of at least Fifteen Senators, including the Speaker, shall be necessary to constitute a Meeting of the Senate for the Exercise of its Powers. Quorum of Senate.

36. Questions arising in the Senate shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative. Voting in Senate.

The House of Commons.

37. The House of Commons shall, subject to the Provisions of this Act, consist of One hundred and eighty-one Members, of whom Eighty-two shall be elected for Ontario, Sixty-five for Quebec, Nineteen for Nova Scotia, and Fifteen for New Brunswick. Constitution of House of Commons in Canada.

38. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons. Summoning of Houses of Commons.

39. A Senator shall not be capable of being elected or of sitting or voting as a Member of the House of Commons. Senators not to sit in House of Commons.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows:— Electoral districts of the four Provinces.

1.—

Digitized by Google

1.—*ONTARIO.*

Ontario shall be divided into the Counties, Ridings of Counties, Cities, Parts of Cities, and Towns enumerated in the First Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return One Member.

2.—*QUEBEC.*

Quebec shall be divided into Sixty-five Electoral Districts, composed of the Sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under Chapter Two of the Consolidated Statutes of Canada, Chapter Seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the Twenty-third Year of the Queen, Chapter One, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the Purposes of this Act an Electoral District entitled to return One Member.

3.—*NOVA SCOTIA.*

Each of the Eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return Two Members, and each of the other Counties One Member.

4.—*NEW BRUNSWICK.*

Each of the Fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be an Electoral District; The City of St. John shall also be a separate Electoral District. Each of those Fifteen Electoral Districts shall be entitled to return One Member.

Continuance of existing Election Laws until Parliament of Canada otherwise provides.

41. Until the Parliament of Canada otherwise provides, all Laws in force in the several Provinces at the Union relative to the following Matters or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the House of Assembly or Legislative Assembly in the several Provinces, the Voters at Elections of such Members, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which Elections may be continued, the Trial of controverted Elections, and Proceedings incident thereto, the vacating of Seats of Members, and the Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces.

Provided

Digitized by Google

Provided that, until the Parliament of Canada otherwise provides, at any Election for a Member of the House of Commons for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

42. For the First Election of Members to serve in the House of Commons the Governor General shall cause Writs to be issued by such Person, in such Form, and addressed to such Returning Officers as he thinks fit. Writs for first election.

The Person issuing Writs under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the issuing of Writs for the Election of Members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom Writs are directed under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the returning of Writs for the Election of Members to serve in the same respective House of Assembly or Legislative Assembly.

43. In case a Vacancy in the Representation in the House of Commons of any Electoral District happens before the Meeting of the Parliament, or after the Meeting of the Parliament before Provision is made by the Parliament in this Behalf, the Provisions of the last foregoing Section of this Act shall extend and apply to the issuing and returning of a Writ in respect of such vacant District. As to Casual Vacancies.

44. The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker. As to Election of Speaker of House of Commons.

45. In case of a Vacancy happening in the Office of Speaker by Death, Resignation, or otherwise, the House of Commons shall with all practicable Speed proceed to elect another of its Members to be Speaker. As to filling up Vacancy in Office of Speaker.

46. The speaker shall preside at all Meetings of the House of Commons. Speaker to preside.

47. Until the Parliament of Canada otherwise provides, in case of the Absence for any Reason of the Speaker from the Chair of the House of Commons for a Period of Forty-eight consecutive Hours, the House may elect another of its Members to act as Speaker, and the Member so elected shall during the Continuance of such Absence of the Speaker have and execute all the Powers, Privileges, and Duties of Speaker. Provision in case of absence of Speaker.

48.

Digitized by Google

Quorum of House of Commons.

48. The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers; and for that Purpose the Speaker shall be reckoned as a Member.

Voting in House of Commons.

49. Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote.

Duration of House of Commons.

50. Every House of Commons shall continue for Five Years from the Day of the Return of the Writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer.

Decennial Re-adjustment of Representation.

51. On the Completion of the Census in the Year One thousand eight hundred and seventy-one, and of each subsequent decennial Census, the Representation of the Four Provinces shall be readjusted by such Authority, in such Manner, and from such Time, as the Parliament of Canada from Time to Time provides, subject and according to the following Rules:—

(1.) Quebec shall have the fixed Number of Sixty-five Members:

(2). There shall be assigned to each of the other Provinces such a Number of Members as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the Number Sixty-five bears to the Number of the Population of Quebec (so ascertaind):

(3). In the Computation of the Number of Members for a Province a fractional Part not exceeding One Half of the whole Number requisite for entitling the Province to a Member shall be disregarded; but a fractional Part exceeding One Half of that Number shall be equivalent to the whole Number:

(4). On any such Re-adjustment the Number of Members for a Province shall not be reduced unless the Proportion which the Number of the Population of the Province bore to the Number of the aggregate Population of Canada at the then last preceding Re-adjustment of the Number of Members for the Province is ascertained at the then latest Census to be diminished by One Twentieth Part or upwards:

(5.)

Digitized by Google

(5). Such Re-adjustment shall not take effect until the Termination of the then existing Parliament.

52. The Number of Members of the House of Commons may be from Time to Time increased by the Parliament of Canada, provided the proportionate Representation of the Provinces prescribed by this Act is not thereby disturbed.

Increase of number of house of Commons.

Money Votes; Royal Assent.

53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Appropriation and tax Bills.

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

Recommendation of money votes.

55. Where a Bill passed by the Houses of the Parliament is presented to the Governor General for the Queen's Assent, he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.

Royal Assent to Bills, &c.

56. Where the Governor General assents to a Bill in the Queen's Name, he shall by the first convenient Opportunity send an authentic Copy of the Act to One of Her Majesty's Principal Secretaries of State, and if the Queen in Council within Two Years after Receipt thereof by the Secretary of State thinks fit to disallow the Act, such Disallowance (with a Certificate of the Secretary of State of the Day on which the Act was received by him) being signified by the Governor General, by Speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the Day of such Signification.

Disallowance by order in Council of Act assented to by Governor General.

57. A Bill reserved for the Signification of the Queen's Pleasure shall not have any Force unless and until within Two Years from the Day on which it was presented to the Governor General for the Queen's Assent, the Governor General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the Assent of the Queen in Council.

Signification of Queen's pleasure on Bill reserved.

An

Digitized by Google

An Entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a Duplicate thereof duly attested shall be delivered to the proper Officer to be kept among the Records of Canada.

V.—Provincial Constitutions.

Executive Power.

Appointment of Lieutenant Governors of Provinces.

58. For each Province there shall be an Officer, styled the Lieutenant Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.

Tenure of office of Lieutenant Governor.

59. A Lieutenant Governor shall hold Office during the Pleasure of the Governor General; but any Lieutenant Governor appointed after the Commencement of the First Session of the Parliament of Canada shall not be removeable within Five Years from his Appointment, except for Cause assigned, which shall be communicated to him in Writing within One Month after the Order for his Removal is made, and shall be communicated by Message to the Senate and to the House of Commons within One Week thereafter if the Parliament is then sitting, and if not then within One Week after the Commencement of the next Session of the Parliament.

Salaries of Lieutenant Governors.

60. The Salaries of the Lieutenant Governors shall be fixed and provided by the Parliament of Canada.

Oaths, &c. of Lieutenant Governor.

61. Every Lieutenant Governor shall, before assuming the Duties of his Office, make and subscribe before the Governor General or some Person authorized by him, Oaths of Allegiance and Office similar to those taken by the Governor General.

Application of provisions referring to Lieutenant Governor.

62. The Provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the Time being of each Province or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of the Province, by whatever Title he is designated.

Appointment of Executive Officers for Ontario and Quebec.

63. The Executive Council of Ontario and of Quebec shall be composed of such Persons as the Lieutenant Governor from Time to Time thinks fit, and in the first instance of the following Officers, namely,—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in Quebec, the Speaker of the Legislative Council and the Solicitor General.

Digitized by Google

64. The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.

Executive Government of Nova Scotia and New Brunswick.

65. All Powers, Authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant Governor of Ontario and Quebec respectively, with the Advice or with the Advice and Consent of or in conjunction with the respective Executive Councils, or any Members thereof, or by the Lieutenant Governor individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be abolished or altered by the respective Legislatures of Ontario and Quebec.

Powers to be exercised by Lieutenant Governor of Ontario or Quebec with advice or alone.

66. The Provisions of this Act referring to the Lieutenant Governor in Council shall be construed as referring to the Lieutenant Governor of the Province acting by and with the Advice of the Executive Council thereof.

Application of provisions referring to Lieutenant Governor in Council.

67. The Governor General in Council may from Time to Time appoint an Administrator to execute the Office and Functions of Lieutenant Governor during his Absence, Illness, or other Inability.

Administration in absence, &c. of Lieutenant Governor.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Seats of Provincial Governments.

Legislative Power.

1.—*ONTARIO.*

69. There shall be a Legislature for Ontario consisting of the Lieutenant Governor and of One House, styled the Legislative Assembly of Ontario.

Legislature for Ontario.

70.

Digitized by Google

Electoral districts.

70. The Legislative Assembly of Ontario shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth in the First Schedule to this Act.

2.—*QUEBEC.*

Legislature for Quebec.

71. There shall be a Legislature for Quebec consisting of the Lieutenant Governor and of Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

Constitution of Legislative Council.

72. The Legislative Council of Quebec shall be composed of Twenty-four Members, to be appointed by the Lieutenant Governor in the Queen's Name, by Instrument under the Great Seal of Quebec, one being appointed to represent each of the Twenty-four Electoral Divisions of Lower Canada in this Act referred to, and each holding Office for the Term of his Life, unless the Legislature of Quebec otherwise provides under the Provisions of this Act.

Qualification of Legislative Councillors.

73. The Qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec.

Resignation, Disqualification, &c.

74. The Place of a Legislative Councillor of Quebec shall become vacant in the Cases, *mutatis mutandis*, in which the Place of Senator becomes vacant.

Vacancies.

75. When a Vacancy happens in the Legislative Council of Quebec by Resignation, Death, or otherwise, the Lieutenant Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, shall appoint a fit and qualified Person to fill the Vacancy.

Questions as to Vacancies, &c.

76. If any Question arises respecting the Qualification of a Legislative Councillor of Quebec, or a Vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

Speaker of Legislative Council.

77. The Lieutenant Governor may from Time to Time, by Instrument under the Great Seal of Quebec, appoint a Member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his Stead.

Quorum of Legislative Council.

78. Until the Legislature of Quebec otherwise provides, the Presence of at least Ten Members of the Legislative Council, including the Speaker, shall be necessary to constitute a Meeting for the Exercise of its Powers.

79.

Digitized by Google

79. Questions arising in the Legislative Council of Quebec shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the negative. Voting in Legislative Council.

80. The Legislative Assembly of Quebec shall be composed of Sixty-five Members, to be elected to represent the Sixty-five Electoral Divisions or Districts of Lower Canada in this Act referred to, subject to Alteration thereof by the Legistature of Quebec: Provided that it shall not be lawful to present to the Lieutenant Governor of Quebec for Assent any Bill for altering the Limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the Second and Third Readings of such Bill have been passed in the Legislative Assembly with the Concurrence of the Majority of the Members representing all those Electoral Divisions or Districts, and the Assent shall not be given to such Bill unless an Address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed. Constitution of Legislative Assembly of Quebec.

3.—*ONTARIO AND QUEBEC.*

81. The Legislatures of Ontario and Quebec respectively shall be called together not later than Six Months after the Union. First Session of Legislatures.

82. The Lieutenant Governor of Ontario and of Quebec shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province. Summoning of Legislative Assemblies.

83. Until the Legislature of Ontario or of Quebec otherwise provides, a Person accepting or holding in Ontario or in Quebec any Office, Commission, or Employment permanent or temporary, at the Nomination of the Lieutenant Governor, to which an annual Salary, or any Fee, Allowance, Emolument, or profit of any Kind or Amount whatever from the Province is attached, shall not be eligible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any Person being a Member of the Executive Council of the respective Province, or holding any of the following Offices, that is to say, the Offices of Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such Office. Restriction on election of holders of offices.

Digitized by Google

Continuance of existing election Laws.

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following Matters, or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the Assembly of Canada, the Qualifications or Disqualifications of Voters, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which such Elections, may be continued, and the Trial of controverted Elections and the Proceedings incident thereto, the vacating of the Seats of Members and the issuing and Execution of new Writs in case of Seats vacated otherwise than by Dissolution, shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of Ontario and Quebec.

Provided that until the Legislature of Ontario otherwise provides, at any Election for a Member of the Legislative Assembly of Ontario for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

Duration of Legislative Assemblies.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for Four Years from the Day of the Return of the Writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant Governor of the Province), and no longer.

Yearly Session of Legislature.

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Legislature in each Province in one Session and its first Sitting in the next Session.

Speaker, Quorum, &c.

87. The following Provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the Provisions relating to the Election of a Speaker originally and on Vacancies, the Duties of the Speaker, the absence of the Speaker, the Quorum, and the Mode of voting, as if those Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

4.—*NOVA SCOTIA AND NEW BRUNSWICK.*

Constitutions of Legislatures

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the

Digitized by Google

the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act; and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the Period for which it was elected.

of Nova Scotia and New Brunswick.

5.—*ONTARIO, QUEBEC, AND NOVA SCOTIA.*

89. Each of the Lieutenant Governors of Ontario, Quebec, and Nova Scotia shall cause Writs to be issued for the First Election of Members of the Legislative Assembly thereof in such Form and by such Person as he thinks fit, and at such Time and addressed to such Returning Officer as the Governor General directs, and so that the First Election of Member of Assembly for any Electoral District or any Subdivision thereof shall be held at the same Time and at the same Places as the Election for a Member to serve in the House of Commons of Canada for that Electoral District.

First Elections.

6.—*THE FOUR PROVINCES.*

90. The following Provisions of this Act respecting the Parliament of Canada, namely,—the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

Application to Legislatures of provisions respecting money votes, &c.

VI.—Distribution of Legislative Powers.

Powers of the Parliament.

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say:—

Legislative Authority of Parliament of Canada.

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.

Digitized by Google

3. The raising of Money by any Mode or System of Taxation.

4. The borrowing of Money on the Public Credit.

5. Postal Service.

6. The Census and Statistics.

7. Militia, Military and Naval Service, and Defence.

8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.

9. Beacons, Buoys, Lighthouses, and Sable Island.

10. Navigation and Shipping.

11. Quarantine and the Establishment and Maintenance of Marine Hospitals.

12. Sea Coast and Inland Fisheries.

13. Ferries between a Province and any British or Foreign Country or between Two Provinces.

14. Currency and Coinage.

15. Banking, Incorporation of Banks, and the Issue of Paper Money.

16. Savings Banks.

17. Weights and Measures.

18. Bills of Exchange and Promissory Notes.

19. Interest.

20. Legal Tender.

21. Bankruptcy and Insolvency.

22. Patents of Invention and Discovery.

23. Copyrights.

24. Indians, and Lands reserved for the Indians.

Digitized by Google

25. Naturalization and Aliens.

26. Marriage and Divorce.

27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.

28. The Establishment, Maintenance, and Management of Penitentiaries.

29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures.

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated, that is to say,— Subjects of exclusive Provincial Legislation.

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant Governor.

2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.

3. The borrowing of Money on the sole Credit of the Province.

4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.

5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.

6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.

7.

Digitized by Google

7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.

8. Municipal Institutions in the Province.

9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.

10. Local Works and Undertakings other than such as are of the following Classes,—

    a. Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province :

    b. Lines of Steam Ships between the Province and any British of Foreign Country :

    c. Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.

11. The Incorporation of Companies with Provincial Objects.

12. The Solemnization of Marriage in the Province.

13. Property and Civil Rights in the Province.

14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.

15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.

16. Generally all Matters of a merely local or private Nature in the Province.

Education.

Digitized by Google

Education.

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:— Legislation respecting education.

(1.) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:

(2.) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:

(3.) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:

(4.) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick.

94. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and Legislation for uniformity of Laws in three Provinces.

Digitized by Google

and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted ; but any Act of the Parliament of Canada making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

Agriculture and Immigration.

Concurrent powers of Legislation respecting Agriculture, &c.

95. In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province ; and it is hereby declared that the Parliament of Canada may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces ; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII.—JUDICATURE.

Appointment of Judges.

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Selection of Judges in Ontario, &c.

97. Until the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

Selection of Judges in Quebec.

98. The Judges of the Courts of Quebec, shall be selected from the Bar of that Province.

Tenure of office of Judges of Superior Courts.

99. The Judges of the Superior Courts shall hold office during good Behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

Salaries, &c. of Judges.

100. The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick,) and of the Admiralty Courts in Cases where the Judges thereof are for the Time being paid by Salary, shall be fixed and provided by the Parliament of Canada.

101.

Digitized by Google

101. The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time, provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada. General Court of Appeal, &c.

VIII.—REVENUES ; DEBTS ; ASSETS ; TAXATION.

102. All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have Power of Appropriation, except such Portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special Powers conferred on them by this Act, shall form One Consolidated Revenue Fund, to be appropriated for the Public Service of Canada in the Manner and subject to the Charges in this Act provided. Creation of Consolidated revenue fund.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the Costs, Charges, and Expenses incident to the Collection, Management, and Receipt thereof, and the same shall form the First Charge thereon, subject to be reviewed and audited in such Manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides. Expenses of collection, &c.

104. The annual Interest of the Public Debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union shall form the Second Charge on the Consolidated Revenue Fund of Canada. Interest of Provincial public debts.

105. Unless altered by the Parliament of Canada, the Salary of the Governor General shall be Ten thousand Pounds Sterling Money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the Third Charge thereon. Salary of Governor General.

106. Subject to the several Payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the Public Service. Appropriation from time to time.

107. All Stocks, Cash, Banker's Balances, and Securities for Money belonging to each Province at the Time of the Union, except as in this Act mentioned, shall be the Property of Canada, and shall be taken in Reduction of the amount of the respective Debts of the Provinces at the Union. Transfer of stocks, &c.

108.

Digitized by Google

Transfer of property in schedule.

108. The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of Canada.

Property in Lands, Mines, &c.

109. All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the some are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.

Assets connected with Provincial debts.

110. All Assets connected with such Portions of the Public Debt of each Province as are assumed by that Province shall belong to that Provinee.

Canada to be liable for Provincial debts.

111. Canada shall be liable for the Debts and Liabilities of each Province existing at the Union.

Debts of Ontario and Quebec.

112. Ontario and Quebec conjointly shall be liable to Canada for the Amount (if any) by which the Debt of the Province of Canada exceeds at the Union Sixty-two million five hundred thousand Dollars, and shall be charged with Interest at the Rate of Five per Centun per Annum thereon.

Assets of Ontario and Quebec.

113. The Assets enumerated in the Fourth Schedule to this Act belonging at the Union to the Province of Canada shall be the Property of Ontario and Quebec conjointly.

Debt of Nova Scotia.

114. Nova Scotia shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Eight million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

Debt of New Brunswick.

115. New Brunswick shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Seven million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

Payment of interest to Nova Scotia and New Brunswick.

116. In case the Public Debts of Nova Scotia and New Brunswick do not at the Union amount to Eight million and Seven million Dollars respectively, they shall respectively receive by half-yearly Payments in advance from the Government of Canada Interest at Five per Centum per Annum on the Difference between the actual Amounts of their respective Debts and such stipulated Amounts.

Digitized by Google

117. The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Right of Canada to assume any Lands or Public Property required for Fortifications or for the Defence of the Country. Provincial public property.

118. The following Sums shall be paid yearly by Canada to the several Provinces for the Support of their Governments and Legislatures: Grants to Provinces.

	Dollars.
Ontario - - - - - -	Eighty thousand.
Quebec - - - - - -	Seventy thousand.
Nova Scotia - - - - -	Sixty thousand.
New Brunswick - - - -	Fifty thousand.
	Two hundred and sixty thousand;

and an annual Grant in aid of each Province shall be made, equal to Eighty Cents per Head of the Population as ascertained by the Census of One thousand eight hundred and sixty-one, and in the Case of Nova Scotia and New Brunswick, by each subsequent Decennial Census until the Population of each of those two Provinces amounts to Four hundred thousand Souls, at which Rate such Grant shall thereafter remain. Such Grants shall be in full Settlement of all future Demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such Grants, as against any Province, all Sums chargeable as Interest on the Public Debt of that Province in excess of the several Amounts stipulated in this Act.

119. New Brunswick shall receive by half-yearly Payments in advance from Canada for the Period of Ten Years from the Union an additional Allowance of Sixty-three thousand Dollars par Annum; but as long as the Public Debt of that Province remains under Seven million Dollars, a Deduction equal to the Interest at Five per Centum per Annum on such Deficiency shall be made from that Allowance of Sixty-three thousand Dollars. Further grant to New Brunswick.

120. All Payments to be made under this Act, or in discharge of Liabilities created under any Act of the Provinces of Canada, Nova Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such Form and Manner as may from Time to Time be ordered by the Governor General in Council. Form of payments.

121. All Articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces. Canadian manufactures, &c.

122.

Digitized by Google

Continuance of customs and excise Laws.

122. The Customs and Excise Laws of each Province shall, subject to the Provisions of this Act, continue in force until altered by the Parliament of Canada.

Exportation and Importation as between two Provinces.

123. Where Customs Duties are, at the Union, leviable on any Goods, Wares, or Merchandises in any Two Provinces, those Goods, Wares, and Merchandises may, from and after the Union, be imported from one of those Provinces into the other of them on Proof of Payment of the Customs Duty leviable thereon in the Province of Exportation, and on Payment of such further Amount (if any) of Customs Duty as is leviable thereon in the Province of Importation.

Lumber Dues in New Brunswick.

124. Nothing in this Act shall affect the Right of New Brunswick to levy the Lumber Dues provided in Chapter Fifteen of Title Three of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the Amount of such Dues; but the Lumber of any of the Provinces other than New Brunswick shall not be subject to such Dues.

Exemption of Public Lands, &c.

125. No Lands or Property belonging to Canada or any Province shall be liable to Taxation.

Provincial Consolidated revenue fund.

126. Such Portions of the Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick had before the Union Power of Appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the special Powers conferred upon them by this Act, shall in each Province form One Consolidated Revenue Fund to be appropriated for the Public Service of the Province.

IX.—MISCELLANEOUS PROVISIONS.

General.

As to Legislative Councillors of Provinces becoming senators.

127. If any Person being at the passing of this Act a Member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a Place in the Senate is offered, does not within Thirty Days thereafter, by Writing under his Hand addressed to the Governor General of the Province of Canada or to the Lieutenant Governor of Nova Scotia or New Brunswick (as the Case may be), accept the same, he shall be deemed to have declined the same; and any Person who, being at the passing of this Act a Member of the Legislative Council of Nova Scotia or New Brunswick, accepts a Place in the Senate shall thereby vacate his Seat in such Legislative Council.

128.

Digitized by Google

128. Every Member of the Senate or House of Commons of Canada shall before taking his Seat therein take and subscribe before the Governor General or some Person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall before taking his Seat therein take and subscribe before the Lieutenant Governor of the Province or some Person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of Canada and every Member of the Legislative Council of Quebec shall also, before taking his Seat therein, take and subscribe before the Governor-General, or some Person authorized by him, the Declaration of Qualification contained in the same Schedule.

Oath of Allegiance, &c.

129. Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act.

Continuance of existing Laws, Courts, Officers, &c.

130. Until the Parliament of Canada otherwise provides, all Officers of the several Provinces having Duties to discharge in relation to Matters other than those coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be Officers of Canada, and shall continue to discharge the Duties of their respective Offices under the same Liabilities, Responsibilities, and Penalties as if the Union had not been made.

Transfer of officers to Canada.

131. Until the Parliament of Canada otherwise provides, the Governor General in Council may from Time to Time appoint such Officers as the Governor General in Council deems necessary or proper for the effectual Execution of this Act.

Appointment of new officers.

132. The Parliament and Government of Canada shall have all Powers necessary or proper for performing the Obligations of Canada or of any Province thereof, as Part of the British Empire, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.

Treaty obligations.

133.

Digitized by Google

Use of English and French Languages.

133. Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

Ontario and Quebec.

Appointment of executive officers for Ontario and Quebec.

134. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following Officers, to hold Office during Pleasure, that is to say,—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the Case of Quebec the Solicitor General; and may, by Order of the Lieutenant Governor in Council, from Time to Time prescribe the Duties of those Officers and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof; and may also appoint other and additional Officers to hold Office during Pleasure, and may from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof.

Powers, duties, &c. of Executive officers.

135. Until the Legislature of Ontario or Quebec otherwise provides, all Rights, Powers, Duties, Functions, Responsibilities, or Authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any Law, Statute or Ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any Officer to be appointed by the Lieutenant Governor for the Discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the Duties and Functions of the Office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of Canada, as well as those of the Commissioner of Public Works.

Digitized by Google

136. Until altered by the Lieutenant Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same Design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their Union as the Province of Canada. Great Seals.

137. The Words "and from thence to the End of the then "next ensuing Session of the Legislature," or Words to the same Effect, used in any temporary Act of the Province of Canada not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of Canada, if the subject Matter of the Act is within the Powers of the same, as defined by this Act, or to the next Sessions of the Legislatures of Ontario and Quebec respectively, if the Subject Matter of the Act is within the Powers of the same as defined by this Act. Construction of temporary Acts.

138. From and after the Union the Use of the Words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any Deed, Writ, Process, Pleading, Document, Matter, or Thing, shall not invalidate the same. As to Errors in names.

139. Any Proclamation under the Great Seal of the Province of Canada issued before the Union to take effect at a Time which is subsequent to the Union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several Matters and Things therein proclaimed shall be and continue of like Force and Effect as if the Union had not been made. As to issue of Proclamations before Union, to commence after Union.

140. Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the Union, may be issued by the Lieutenant Governor of Ontario or of Quebec, as its Subject Matter requires, under the Great Seal thereof; and from and after the Issue of such Proclamation the same and the several Matters and Things therein proclaimed shall be and continue of the like Force and Effect in Ontario or Quebec as if the Union had not been made. As to issue of Proclamations after Union.

141. The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec. Penitentiary.

142. The Division and Adjustment of the Debts, Credits, Liabilities, Properties, and Assets of Upper Canada and Lower Canada shall be referred to the Arbitrament of Three Arbitrators, One chosen by the Government of Ontario, One by the Government Arbitration respecting debts, &c.

Digitized by Google

Government of Quebec, and One by the Government of Canada; and the Selection of the Arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the Arbitrator chosen by the Government of Canada shall not be a Resident either in Ontario or in Quebec.

Division of records.

143. The Governor-General in Council may from Time to Time order that such and so many of the Records, Books, and Documents of the Province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the Property of that Province; and any Copy thereof or Extract therefrom, duly certified by the Officer having charge of the Original thereof, shall be admitted as Evidence.

Constitution of townships in Quebec.

144. The Lieutenant Governor of Quebec may from Time to Time, by Proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute Townships in those Parts of the Province of Quebec in which Townships are not then already constituted, and fix the Metes and Bounds thereof.

X.—Intercolonial Railway.

Duty of Government and Parliament of Canada to make Railway herein described.

145. Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that Provision should be made for its immediate Construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of Canada to provide for the Commencement within Six Months after the Union, of a Railway connecting the River St. Lawrence with City of Halifax in Nova Scotia, and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed.

XI.—Admission of other Colonies.

Power to admit Newfoundland, &c. into the Union.

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the

Digitized by Google

the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

As to Representation of Newfoundland and Prince Edward Island in Senate.

147. In case of the Admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a Representation in the Senate of Canada of Four Members, and (notwithstanding anything in this Act) in case of the Admission of Newfoundland the normal Number of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the Three Divisions into which Canada is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of Prince Edward Island, whether Newfoundland is admitted or not, the Representation of Nova Scotia and New Brunswick in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provisions of this Act for the Appointment of Three or Six additional Senators under the Direction of the Queen.

SCHEDULES.

The FIRST SCHEDULE.

Electoral Districts of Ontario.

A.

EXISTING ELECTORAL DIVISIONS.

COUNTIES.

1. Prescott.
2. Glengarry.
3. Stormont.
4. Dundas.
5. Russell.
6. Carleton.
7. Prince Edward.
8. Halton.
9. Essex.

Digitized by Google

RIDINGS OF COUNTIES.

10. North Riding of Lanark.
11. South Riding of Lanark.
12. North Riding of Leeds and North Riding of Grenville.
13. South Riding of Leeds.
14. South Riding of Grenville.
15. East Riding of Northumberland.
16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan.)
17. East Riding of Durham.
18. West Riding of Durham.
19. North Riding of Ontario.
20. South Riding of Ontario.
21. East Riding of York.
22. West Riding of York.
23. North Riding of York.
24. North Riding of Wentworth.
25. South Riding of Wentworth.
26. East Riding of Elgin.
27. West Riding of Elgin.
28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.
31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

CITIES, PARTS OF CITIES AND TOWNS.

35. West Toronto.
36. East Toronto.
37. Hamilton.
38. Ottawa.
39. Kingston.
40. London.
41. Town of Brockville, with the Township of Elizabethtown thereto attached.
42. Town of Niagara, with the Township of Niagara, thereto attached.
43. Town of Cornwall, with the Township of Cornwall thereto attached.

Digitized by Google

B.

New Electoral Divisions.

44. The Provisional Judicial District of Algoma.

The County of Bruce, divided into Two Ridings, to be called respectively the North and South Ridings:—

45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albemarle, Amable, Arran, Bruce, Elderslie, and Saugeen, and the Village of Southampton.

46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinloss, Culross, and Carrick.

The County of Huron, divided into Two Ridings, to be called respectively the North and South Ridings:

47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including the Village of Clinton, and McKillop.

48. The South Riding to consist of the Town of Goderich and the Township of Goderich, Tuckersmith, Stanley, Hay, Usborne, and Stephen.

The County of Middlesex, divided into three Ridings, to be called respectively the North, West, and East Ridings:—

49. The North Riding to consist of the Townships of McGillivray and Biddulph (taken from the County of Huron), and Williams East, Williams West, Adelaide, and Lobo.

50. The West Riding to consist of the Townships of Delaware, Carradoc, Metcalfe, Mosa and Ekfrid, and the Village of Strathroy.

[The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.]

51. The County of Lambton to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.

Digitized by Google

52. The County of KENT to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.

53. The County of BOTHWELL to consist of the Townships of Sombra, Dawn, and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford, and Howard (taken from the County of Kent).

The County of GREY divided into Two Ridings to be called respectively the South and North Ridings:—

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.

55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint-Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of PERTH divided into Two Ridings, to be called respectively the South and North Ridings:—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.

57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and Ste. Marys.

The County of WELLINGTON divided into Three Ridings to be called respectively North, South and Centre Ridings:—

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.

59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol, and Pilkington, and the Villages of Fergus and Elora.

60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

The

Digitized by Google

The County of NORFOLK, divided into Two Ridings, to be called respectively the South and North Ridings:—

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.

62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.

63. The County of HALDIMAND to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Rainham, Walpole, and Dunn.

64. The County of MONCK to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caister and Gainsborough, (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).

65. The County of LINCOLN to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catherines.

66. The County of WELLAND to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold, and Welland.

67. The County of PEEL to consist of the Townships of Chinguacousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.

68. The County of CARDWELL to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe).

The County of SIMCOE, divided into Two Ridings, to be called respectively the South and the North Ridings:—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Tossorontio, Mulmur, and the Village of Bradford.

70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia

Digitized by Google

Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

The County of VICTORIA, divided into Two Ridings, to be called respectively the South and North Ridings :—

71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.

72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville, and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Townships lying to the North of the said North Riding.

The County of PETERBOROUGH, divided into Two Ridings, to be called respectively the West and East Ridings :—

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland,) North Monaghan, Smith, and Ennismore, and the Town of Peterborough.

74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any other surveyed Townships lying to the North of the said East Riding.

The County of HASTINGS, divided into Three Ridings, to be called respectively the West, East, and North Ridings :—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.

76. The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.

77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the Village of Stirling, and any other surveyed Townships lying to the North of the said North Riding.

78. The County of LENNOX, to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South

Digitized by Google

South Fredericksburgh, Ernest Town, and Amherst Island and the Village of Napanee

79. The County of ADDINGTON to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.

80. The County of FRONTENAC to consist of the Townships of Kingston, Wolfe Island, Pittsburgh and Howe Island, and Storrington.

The County of RENFREW, divided into Two Ridings, to be called respectively the South and North Ridings:—

81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.

82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards, and any other surveyed Townships lying North-westerly of the said North Riding.

Every Town and incorporated Village existing at the Union, not specially mentioned in this Sehedule, is to be taken as Part of the County or Riding withih which it is locally situate.

THE SECOND SCHEDULE.

Electoral Districts of Quebec specially fixed.

COUNTIES OF—

Pontiac.	Missisquoi.	Compton.
Ottawa.	Brome.	Wolfe and Richmond.
Argenteuil.	Shefford.	Megantic.
Huntingdon.	Stanstead.	

Town of Sherbrooke.

THE

Digitized by Google

THE THIRD SCHEDULE.

Provincial Public Works and Property to be the Property of Canada.

1. Canals, with Lands and Water Power connected therewith.
2. Public Harbours.
3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges, and public Vessels.
5. Rivers and Lake Improvements.
6. Railways and Railway Stocks, Mortgages, and other Debts due by Railway Companies.
7. Military Roads.
8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the Use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordnance Property.
10. Armouries, Drill Sheds, Military Clothing, and Munitions of War, and Lands set apart for general Public Purposes.

THE FOURTH SCHEDULE.

Assets to be the Property of Ontario and Quebec conjointly.

Upper Canada Building Fund.
Lunatic Asylums.
Normal School.
Court Houses, in Aylmer. Montreal. Kamouraska. } Lower Canada.
Law Society, Upper Canada.
Montreal Turnpike Trust.
University Permanent Fund.
Royal Institution.
Consolidated Municipal Loan Fund, Upper Canada.
Consolidated Municipal Loan Fund, Lower Canada.
Agricultural Society, Upper Canada.

Lower

Digitized by Google

Lower Canada Legislative Grant.
Quebec Fire Loan.
Tamiscouata Advance Account.
Quebec Turnpike Trust.
Education—East.
Building and Jury Fund, Lower Canada.
Municipalities Fund.
Lower Canada Superior Education Income Fund.

THE FIFTH SCHEDULE.

Oath of Allegiance.

I, *A. B.* do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

Note.—The Name of the King or Queen of the United Kingdom of Great Britain and Ireland for the Time being is to be substituted from Time to Time, with proper Terms of Reference thereto.

Declaration of Qualification.

I, *A. B.* do declare and testify, That I am by Law duly qualified to be appointed a Member of the Senate of Canada [*or as the Case may be*], and that I am legally or equitably seised as of Freehold for my own Use and Benefit of Lands or Tenements held in Free and Common Socage [*or* seised or possessed for my own Use and Benefit of Lands or Tenements held in Franc-alleu or in Roture (*as the Case may be*),] in the Province of Nova Scotia [*or as the Case may be*] of the Value of Four thousand Dollars over and above all Rents, Dues, Debts, Mortgages, Charges, and Incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a Title to or become possessed of the said Lands and Tenements or any Part thereof for the Purpose of enabling me to become a Member of the Senate of Canada [*or as the Case may be*], and that my Real and Personal Property are together worth Four thousand Dollars over and above my Debts and Liabilities.

Digitized by Google

Digitized by Google

ANNO TRICESIMO ET TRICESIMO-PRIMO

VICTORIÆ REGINÆ.

CAP. XVI.

An Act for authorizing a Guarantee of Interest on a Loan to be raised by *Canada* towards the Construction of a Railway connecting *Quebec* and *Halifax*.

[*12th April*, 1867.]

WHEREAS the construction of a Railway connecting the Port of *Rivière du Loup*, in the Province of *Quebec*, with the line of railway leading from the city of *Halifax*, in the Province of *Nova Scotia*, at or near the town of *Truro*, in a line, and on conditions approved by one of Her Majesty's Principal Secretaries of State, would conduce to the welfare of *Canada* and promote the interest of the British Empire:

And whereas it would greatly facilitate the construction of that railway (in this Act referred to as the railway) if payment of interest on part of the money required to be raised for the same were guaranteed under the authority of Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament Assembled, and by the authority of the same as follows:

Power for treasury to guarantee interest on loan.

1. Subject to the provisions of this Act, the Commissioners of Her Majesty's Treasury may guarantee, in such manner and form as they think fit, payment of interest at a rate not exceeding four per centum per annum on any principal money not exceeding the sum of three million pounds sterling, to be raised by way of loan by the Government of *Canada* for the purpose of the construction of the railway; and the Commissioners of Her Majesty's Treasury may from time to time cause to be issued out of the consolidated fund of the United Kingdom, or the growing produce thereof, any money required for giving effect to such guarantee.

2.

Digitized by Google

Approval of line and use of railway for troops, &c.

2. The Commissioners of Her Majesty's Treasury shall not give any guarantee under this Act unless and until an Act of the Parliament of *Canada* has been passed, within two years after the union of *Canada* under the *British North America* Act, 1867, providing to the satisfaction of one of Her Majesty's Principal Secretaries of State, as follows:

1. For the construction of the railway:

2. For the use of the railway at all times for Her Majesty's military and other service:

Nor unless and until the line in which the railway is to be constructed has been approved by one of Her Majesty's Principal Secretaries of State.

Raising and expenditure of a loan charged on Canadian Revenue, with Sinking Fund, &c.

3. The Commissioners of Her Majesty's Treasury shall not give any guarantee under this Act unless and until an Act of the Parliament of *Canada* has been passed providing, to the satisfaction of the Commissioners of Her Majesty's Treasury, as follows:

1. For the raising, appropriation and expenditure for the purpose of the construction of the railway of a loan not exceeding Three Million Pounds Sterling, bearing interest at a rate not exceeding four per centum per annum:

2. For charging the Consolidated Revenue Fund of *Canada* with the principal and interest of the loan immediately after the charges specifically made thereon by Sections One Hundred and Three, One Hundred and Four, and One Hundred and Five of The *British North America* Act, 1867:

3. For the payment by the Government of *Canada* by way of Sinking Fund of an annual sum at the rate of one *per centum per annum* on the entire amount of principal money whereon Interest is guaranteed, to be remitted to the Commissioners of Her Majesty's Treasury by equal half-yearly payments in such manner as they from time to time direct, and to be invested and accumulated under their direction in the names of four Trustees, nominated from time to time, two by the Commissioners of Her Majesty's Treasury and two by the Government of *Canada*, such Sinking Fund and its accumulations to be invested in securities of the Provinces of *Canada*, *Nova Scotia* and *New Brunswick*, issued before the Union of *Canada*, or, at the option of the Government

Digitized by Google

Government of *Canada*, in such other securities as may be proposed by that Government and approved by the Commissioners of Her Majesty's Treasury, and to be applied under the direction of the Commissioners of Her Majesty's Treasury in discharge of principal money whereon interest is guaranteed;

4. For charging the Consolidated Revenue Fund of *Canada* with the amount of the Sinking Fund immediately after the principal and interest of the loan:

5. For charging the Consolidated Revenue Fund of *Canada* with any sum issued out of the Consolidated Fund of the United Kingdom under this Act, with interest thereon at the rate of five *per centum per annum*, immediately after the Sinking Fund;

6. For continuance of the Sinking Fund until all principal and interest of the loan, and all sums issued out of the Consolidated Fund of the United Kingdom under this Act, and all interest thereon, are fully discharged, or until the Sinking Fund and its accumulations are adequate to discharge so much thereof as remains undischarged;

7. For the raising by the Government of *Canada* (without guarantee by the Commissioners of Her Majesty's Treasury) of all such money (if any) beyond the sum of three million pounds sterling as, in the opinion of one of Her Majesty's Principal Secretaries of State, will be requisite for the construction of the railway, and for charging the Consolidated Revenue Fund of *Canada* with the money so raised, and interest, immediately after the charges made thereon in pursuance of the foregoing provisions of this section.

Statement and account to be laid before houses of Parliament.

4. There shall be laid before both Houses of Parliament, within fourteen days next after the beginning of every session, a statement and account showing what has been done from time to time in execution or pursuance of this Act by or under the direction of the Commissioners of Her Majesty's Treasury, and one of Her Majesty's Principal Secretaries of State, and the Parliament and Government of *Canada*.

Short title.

5. This Act may be cited as The *Canada* Railway Loan Act, 1867.

Digitized by Google

Digitized by Google

ANNO TRICESIMO ET TRICESIMO-PRIMO

VICTORIÆ REGINÆ.

CAP. CXXIV.

An Act to amend the Merchant Shipping Act, 1854.

[20th *August* 1867.]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title.

1. This Act may be cited as "The Merchant Shipping Act, 1867," and shall be construed with and as Part of "The Merchant Shipping Act, 1854," herein-after termed the Principal Act.

Commencement of Act.

2. This Act shall come into operation on the First Day of *January* One thousand eight hundred and sixty-eight, but shall not apply to any Ship which belongs to the United Kingdom and is absent therefrom at the Time when this Act comes into operation until such Ship has returned to the United Kingdom.

Sects. 224, 227, and 231 of 17 & 18 Vict. c. 104, repealed.

3. The Two hundred and twenty-fourth, Two hundred and twenty-seventh, and Two hundred and thirty-first Sections of the Principal Act are hereby repealed.

Lime or Lemon Juice and other Anti-scorbutics to be provided and kept on board certain Ships.

4. The following Rules shall be observed with respect to Medicines, Medical Stores, and Anti-scorbutics; (that is to say,)

(1.) The Board of Trade shall from Time to Time issue and cause to be published Scales of Medicines and Medical Stores suitable for different Ships and Voyages, and shall also prepare or sanction a Book or Books containing Instructions for dispensing the same:

(2.) The Owners of every Ship navigating between the United Kingdom and any Place out of the same shall provide and cause to be kept on board such Ship a Supply of Medicines

Digitized by Google

Medicines and Medical Stores in accordance with the Scale appropriate to the said Ship, and also a Copy of the said Book or of One of the said Books containing Instructions:

(3.) No Lime of Lemon Juice shall be deemed fit and proper to be taken on board any such Ship, for the Use of the Crew or Passengers thereof, unless the same has been obtained from a Bonded Warehouse for and to be shipped as Stores; and no Lime or Lemon Juice shall be so obtained or delivered from any Warehouse as aforesaid unless the same is shown, by a Certificate under the Hand of an Inspector appointed by the Board of Trade, to be proper for Use on board Ship, such Certificate to be given upon Inspection of a Sample after Deposit of the said Lime or Lemon Juice in the Warehouse; nor unless the same contains Fifteen *per Centum* of proper and palatable Proof Spirits, to be approved by such Inspector, or by the proper Officer of Customs, and to be added before or immediately after the Inspection thereof; nor unless the same is packed in such Bottles, at such Time and in such Manner, and is labelled in such Manner as the Commissioners of Customs may direct; provided that when any such Lime or Lemon Juice is deposited in any Bonded Warehouse, and has been approved as aforesaid by the said Inspector, the said Spirits, or so much of the said Spirits as is necessary to make up Fifteen per Centum, may be added in such Warehouse, without Payment of any Duty thereon; and when any Spirit has been added to any Lime or Lemon Juice, and the same has been labelled as aforesaid, it shall be deposited in the Warehouse for Delivery as Ship's Stores only, upon such Terms and subject to such Regulations of the Commissioners of Customs as are applicable to the Delivery of Ship's Stores from the Warehouse:

(4.) The Master or Owner of every such Foreign-going Ship (except those bound to European Ports or to Ports in the Mediterranean Sea, and also except such Ships or Classes of Ships bound to Ports on the Eastern Coast of America North of the Thirty-fifth Degree of North Latitude, and to any Islands or Places in the Atlantic Ocean North of the same Limit, as the Board of Trade may from Time to Time exempt from this Enactment,) shall provide and cause to be kept on board such Ship a sufficient Quantity of Lime or Lemon Juice from the Warehouse duly labelled as aforesaid, such Labels to remain intact until Twenty-four Hours at least after such

Digitized by Google

such Ship shall have left her Port of Departure on her Foreign Voyage, or a sufficient Quantity of such other Anti-scorbutics, if any, of such Quality, and composed of such Materials, and packed and kept in such Manner, as Her Majesty by Order in Council may from Time to Time direct:

(5.) The Master of every such Ship as last aforesaid shall serve or cause to be served out the Lime or Lemon Juice with Sugar (such Sugar to be in addition to any Sugar required by the Articles) or other such Anti-scorbutics as aforesaid to the Crew so soon as they have been at Sea for Ten Days, and during the Remainder of the Voyage, except during such Time as they are in Harbour and are there supplied with fresh Provisions; the Lime or Lemon Juice and Sugar to be served out daily at the Rate of an Ounce each per Day to each Member of the Crew, and to be mixed with a due Proportion of Water before being served out, or the other Anti-scorbutics, if any, at such Times and in such Quantities as Her Majesty by Order in Council may from Time to Time direct:

(6.) If at any Time when such Lime or Lemon Juice or Anti-scorbutics is or are so served out as aforesaid any Seaman or Apprentice refuses or neglects to take the same, such Neglect or Refusal shall be entered in the Official Logbook in the Manner provided by the Two hundred and eighty-first Section of the Principal Act, and shall be signed by the Master and by the Mate or some other of the Crew, and also by the Surgeon or Medical Practitioner on board, if any:

And if in any such Ship as aforesaid such Medicines, Medical Stores, Book of Instructions, Lime or Lemon Juice, Sugar, or Anti-scorbutics as are herein-before required are not provided, packed, and kept on board as herein-before required, the Owner or Master shall be deemed to be in fault, and shall for each Default incur a Penalty not exceeding Twenty Pounds, unless he can prove that the Non-compliance with the above Provisions, or any of them, was not caused through any Inattention, Neglect, or wilful Default on his Part; and if the Lime or Lemon Juice and Sugar or other Anti-scorbutics are not served out in the Case and Manner herein-before directed, or if Entry is not made in the Official Log in the Case and Manner herein-before required, the Master shall be deemed to be in fault, and shall for each Default incur a Penalty not exceeding Five Pounds, unless he can prove that the Non-compliance with the above Provisions, or any of them, did not

Digitized by Google

arise through any Neglect, Omission, or wilful Default on his Part; and if in any Case it is proved that some Person other than the Master or Owner is in default in any Case under this Section, then such other Person shall be liable to a penalty not exceeding Twenty Pounds.

Penalty for selling, &c. Medicines, &c. of bad Quality.

5. Any Person who manufactures, sells, or keeps or offers for Sale any such Medicines or Medical Stores as aforesaid which are of bad Quality, shall for each such Offence incur a Penalty not exceeding Twenty Pounds.

Power to Governors, &c., to make Regulations as to Supply of Lime or Lemon Juice, &c.

6. In any British Possession out of the United Kingdom the Governor or Officer administering the Government for the Time being shall, subject to the Laws of such Possession, have Power to Make Regulations concerning the Supply within such Possession of Lime or Lemon Juice and Anti-scorbutics for the Use of Ships; and any Lime or Lemon Juice or Anti-scorbutics duly supplied in accordance with any such Regulations shall be deemed to be fit and proper for the Use of Ships.

Seamen's Expenses in case of illness throughneglect of owner or master to be paid by them.

7. Whenever it is shown that any Seaman or Apprentice who is ill has, through the Neglect of the Master or Owner, not been provided with proper Food and Water according to his Agreement, or with such Accommodation, Medicines, Medical Stores, or Anti-scorbutics as are required by the Principal Act, or by this Act, then, unless it can be shown that the Illness has been produced by other Causes, the Owner or Master shall be liable to pay all Expenses properly and necessarily incurred by reason of such Illness (not exceeding in the whole Three Months Wages), either by such Seaman himself, or by Her Majesty's Government, or any Officer of Her Majesty's Government, or by any Parochial or other Local Authority on his Behalf, and such Expenses may be recovered in the same Way as if they were Wages duly earned: Provided that this Enactment shall not operate so as to affect any further Liability of any such Owner or Master for such Neglect, or any Remedy which any Seaman already possesses.

Forfeiture of wages, &c., of seamen when illness caused by his own default.

8. Where a Seaman is by reason of Illness incapable of performing his Duty, and it is proved that such Illness has been caused by his own wilful Act or Default, he shall not be entitled to Wages for the Time during which he is by reason of such Illness incapable of performing his Duty.

Place appropriated to seamen to have a certain space for each man, and to be properly

9. The following Rules shall be observed with respect to Accommodation on board British Ships; (that is to say,)

(1.) Every Place in any Ship occupied by Seamen or Apprentices, and appropriated to their Use, shall have for every such

Digitized by Google

such Seaman or Apprentice a Space of not less than Seventy-two Cubic Feet, and of not less than Twelve Superficial Feet, measured on the Deck or Floor of such Place : constructed and kept clear.

(2.) Every such Place shall be such as to make the Space aforesaid available for the proper Accommodation of the Men who are to occupy it, shall be securely constructed, properly lighted and ventilated, properly protected from Weather and Sea, and as far as practicable properly shut off and protected from Effluvium which may be caused by Cargo or Bilge Water :

(3.) No such Place as aforesaid shall be deemed to be such as to authorize a Deduction from Registered Tonnage, under the Provisions herein-after contained, unless there is or are in the Ship One or more properly constructed Privy or Privies for the Use of the Crew ; such Privy or Privies to be of such Number and of such Construction as may be approved by the Surveyor herein-after mentioned :

(4.) Every such Place shall, whenever the Ship is registered or re-registered, be inspected by One of the Surveyors appointed by the Board of Trade under Part IV of the Principal Act, who shall, if satisfied that the same is in all respects such as is required by this Act, give to the Collector of Customs a Certificate to that Effect, and thereupon such Space shall be deducted from the Register Tonnage :

(5.) No such Deduction from Tonnage as aforesaid shall be authorized unless there is permanently cut in a Beam, and cut in or painted on or over the Doorway or Hatchway of every such Place, the Number of Men which it is constructed to accommodate, with the Words " Certified to accommodate Seamen " :

(6.) Every such Place shall be kept free from Stores or Goods of any kind, not being the personal Property of the Crew in use during the Voyage :

(7.) Upon any Complaint concerning any such Place as aforesaid, One of the Surveyors appointed by the Board of Trade may inspect such Place, and if he finds that any of the Provisions of this Act with respect to the same are not complied with he shall report the same to the Collector of Customs, at the Port where the Ship is registered, and thereupon the registered Tonnage shall

 be

Digitized by Google

be altered, and the Deduction aforesaid in respect of Space disallowed, unless and until it shall be certified by such Surveyor, or by some other Surveyor appointed by the Board of Trade, that the Provisions of the Act in respect of such Place are fully complied with :

(8.) If any such Place in any Ship is not kept free from Goods and Stores as aforesaid, the Master shall be deemed to be in fault, and shall for every such Failure to comply with the Provisions of this Section forfeit and pay to each Seaman lodged in such Place the Sum of One Shilling a Day for each Day after Complaint made to him by any Two or more of such Seamen during which any Goods or Stores, not being the personal Property of the Crew, are stored or kept therein :

(9.) If in any other respect the Provisions of this Section are not observed with respect to any such Place in any Ship the Owner shall be deemed to be in fault, and shall for every Failure to comply with the Provisions of this Section incur a Penalty not exceeding Twenty Pounds.

Rules for Inspection of seamen.

10. The following Rules shall be observed with respect to the Medical Inspection of Seamen, that is to say :

(1.) At any Port where there is a Local Marine Board the Local Marine Board and at other Ports in the United Kingdom the Board of Trade, may appoint a Medical Inspector of Seamen :

(2.) Such Medical Inspector of Seamen shall, on Application by the Owner or Master of any Ship, examine any Seaman applying for Employment in such Ship, and shall give to the Superintendent of the Mercantile Marine Office a Report under his Hand stating whether such Seaman is in a fit State for Duty at Sea, and a Copy of such Report shall be given to the Master or Owner of the Ship :

(3.) The Master or Owner applying for such Inspection shall pay to the Superintendent such Fees as the Board of Trade direct, and such Fees shall be paid into and form Part of the Mercantile Marine Fund :

(4.) The said Medical Inspectors shall be remunerated for their Services as the Board of Trade may direct, and such Remuneration shall be paid out of the Mercantile Marine Fund :

(5.)

Digitized by Google

(5.) In British Possessions out of the United Kingdom the Governor or other Officer administering the Government for the Time being shall have the Power of appointing Medical Inspectors of Seamen, of charging Fees for Inspections, when applied for, and of determining the Remuneration to be paid to such Inspectors.

11. If any British Subject commits any Crime or Offence on board any British Ship, or on board any Foreign Ship to which he does not belong, any Court of Justice in Her Majesty's Dominions, which would have had Cognizance of such Crime or Offence if committed on board a British Ship within the Limits of the ordinary Jurisdiction of such Court, shall have Jurisdiction to hear and determine the Case as if the said Crime or Offence had been committed as last aforesaid.

Offences by British subjects on board ships.

12. The Harbour Master for the Time being of the Harbour of Holyhead, in the event of its seeming meet to Her Majesty to assign to him Her Majesty's Commission to act as a Justice of the Peace within the Limits within which he is empowered to act in Harbour Matters, shall, during the Continuance of such Assignment and of his Tenure of the Office of Harbour Master, execute within such Limits the Duties of a Justice of the Peace, notwithstanding he may not be qualified by Estate to be a Justice of the Peace for a County, and shall have within such Limits the same Power and Jurisdiction as a Stipendiary Magistrate has by Act of Parliament when sitting at a Police Court or other Place appointed in that Behalf.

Harbour Master at Holyhead may be commissioned as Justice.

Digitized by Google

Digitized by Google

STATUTES OF CANADA

PASSED IN THE SESSION HELD IN THE

THIRTY-FIRST YEAR OF THE REIGN OF HER MAJESTY

QUEEN VICTORIA,

BEING THE FIRST SESSION OF THE FIRST PARLIAMENT OF CANADA (Dominion of)

Begun and holden at Ottawa, on the Sixth day of November, in the year of Our Lord One Thousand Eight Hundred and Sixty-seven.

HIS EXCELLENCY
THE RIGHT HONORABLE CHARLES STANLEY VISCOUNT MONCK
GOVERNOR GENERAL.

OTTAWA:
PRINTED BY MALCOLM CAMERON,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Anno Domini, 1867.

Digitized by Google

Digitized by Google

ANNO TRICESIMO-PRIMO

VICTORIÆ REGINÆ.

CAP. I.

An Act respecting the Statutes of Canada.

[*Assented to 21st December*, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows : Preamble.

FORM OF ENACTING.

1. The following words, may be inserted in the Preambles of Statutes and shall indicate the authority by virtue of which they are passed : " Her Majesty, by and with the advice and " consent of the Senate and House of Commons of Canada, " enacts as follows : " Form of enacting clause.

2. After the insertion of the words aforesaid, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, and which shall with these considerations or reasons constitute the entire Preamble, the various clauses of the Statute shall follow in a concise and enunciative form. Other clauses to follow in concise form.

INTERPRETATION.

3. This section and the fourth, fifth, sixth, seventh and eighth sections of this Act, and each provision thereof, shall extend and apply to every Act passed in the Session held in this thirtieth year of Her Majesty's Reign, and in any future Session of the Parliament of Canada, except in so far as the provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause is inconsistent with the context,—and except in so far as any provision thereof is in any such Act declared not applicable thereto ;—Nor shall the omission in any Act of a declaration that the " Interpretation Act" shall apply thereto, be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session. The interpretation clauses to apply to all Acts hereafter passed.

4

Digitized by Google

Date of Royal assent to be endorsed on every Act.

4. The Clerk of the Senate shall endorse on every Act of the Parliament of Canada, immediately after the title of such Act, the day, month and year when the same was by the Governor General assented to in Her Majesty's name, or reserved by him for the signification of Her Majesty's pleasure thereon,—and in the latter case, the Clerk of the Senate shall also endorse thereon the day, month and year when the Governor General has signified either by speech or message to the Senate and House of Commons, or by Proclamation, that the same was laid before Her Majesty in Council, and that Her Majesty was pleased to assent to the same;—And such indorsement shall be taken to be a part of such Act, and the date of such Assent or Signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement be therein provided.

Effect of such endorsement.

Every Act may be amended during session in which it passes.

5. Any Act of the Parliament of Canada may be amended, altered or repealed by any Act to be passed in the same Session thereof.

How enactments shall be construed.

6. In construing this or any Act of the Parliament of Canada, unless it is otherwise provided, or there be some thing in the context or other provisions thereof indicating a different meaning or calling for a different construction:

To apply to the whole Dominion.

1. The enactments in any Act apply to the whole Dominion of Canada;

Application of expressions in present tense.

2. The Law is to be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof according to its spirit, true intent and meaning;

"Shall" and "may."

3. The word "shall" is to be construed as imperative, and the word "may" as permissive;

"Herein."

4. Whenever the word "herein" is used in any section of an Act, it is to be understood to relate to the whole Act and not to that section only;

Interpretation of certain words.

7. Subject to the limitations aforesaid,—in every Act of the Parliament of Canada, to which this section applies:—

"Her Majesty," &c.

First. The words "Her Majesty," "the Queen," or "the Crown," shall mean—Her Majesty, Her Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland;

"Governor," &c.

Secondly. The words "Governor," "Governor of Canada," "Governor General," or "Governor in Chief," shall mean—the Governor General for the time being of Canada, or other the Chief Executive Officer or Administrator for the time being carrying

Digitized by Google

carrying on the Government of Canada, on behalf and in the name of the Queen by whatever title he is designated.

Thirdly. The words "Governor in Council," or "Governor General in Council," shall mean—the Governor General of Canada, or person administering the government of Canada for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with, the Queen's Privy Council for Canada; "Governor in Council, &c."

Fourthly. The words "Lieutenant-Governor" shall mean the Lieutenant-Governor for the time being, or other chief Executive Officer or Administrator for the time being, carrying on the Government of the Province or Provinces of the Dominion indicated by the Act, by whatever title he is designated. "Lieutenant Governor, &c."

Fifthly. The words "Lieutenant-Governor in Council" shall mean the Lieutenant-Governor or person administering the Government of the Province indicated by the Act, for the time being, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the Executive Council of the said Province. "Lieutenant Governor in Council, &c."

Sixthly. The words "the United Kingdom," shall mean the United Kingdom of Great Britain and Ireland;—and the words "the United States," shall mean the United States of America;—And generally, the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, shall mean such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name is not the formal and extended designation thereof; "United Kingdom," "United States," names of places, &c.

Seventhly. The word "Proclamation" means a Proclamation under the Great Seal, and the expression "Great Seal" means the Great Seal of Canada; Proclamation

Eighthly. When the Governor is authorized to do any act by Proclamation, such Proclamation is understood to be a Proclamation issued under an order of the Governor in Council, but it shall not be necessary that it be mentioned in the Proclamation that it is issued under such order; Governor acting by Proclamation.

Ninthly. The word "County" includes two or more Counties united for purposes to which the enactment relates; County.

Tenthly. Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse; Number and gender.

Eleventhly. The word "person," shall include any body corporate and politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom "Person."

the

Digitized by Google

the context can apply according to the law of that part of Canada to which such context extends ;

"Writing," "written."

Twelfthly. The words "writing," "written," or any term of like import, shall include words printed, painted, engraved, lithographed, or otherwise traced or copied ;

"Now" or "next."

Thirteenthly. The word "now" or "next," shall be construed as having reference to the time when the Act was presented for the Royal Assent ;

"Month."

Fourteenthly. The word "month" shall mean a calendar month ;

"Holiday."

Fifteenthly. The word "holiday" shall include Sundays, New Year's Day, the Epiphany, the Annunciation, Good-Friday, the Ascension, *Corpus Christi*, St. Peter and St. Paul's Day, all Saints Day, Conception Day, Easter Monday, Ash Wednesday, Christmas Day, the Birth day of the reigning Sovereign, and any day appointed by Proclamation for a General Fast or Thanksgiving ;

"Oath."

"Sworn."

"Affirmed."

Perjury.

Sixteenthly. The word "oath" shall be construed as meaning a solemn affirmation whenever the context applies to any person and case by whom and in which a solemn affirmation may be made instead of an oath, and in like cases the word "sworn" shall include the word "affirmed":—And in every case where an oath or affirmation is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same and to certify its having been made ;—And the wilful making of any false statement in any such oath or affirmation, shall be wilful and corrupt perjury,—and the wilful making of any false statement in any declaration required or authorized by any Act, shall be a misdemeanor punishable as wilful and corrupt perjury ;

"Sureties."

"Security."

Seventeenthly. The word "sureties" shall mean sufficient sureties, and the word "security" shall mean sufficient security, and where these words are used, one person shall be sufficient therefor unless otherwise expressly required.

"Superior Courts."

Eighteenthly. The words "Superior Courts" shall denote in the Province of Ontario, the Court of Queens Bench, the Court of Common Pleas and the Court of Chancery in the said Province ; in the Province of Quebec the said words shall denote the Court of Queens Bench and the Superior Court in and for the said Province ; and in the Provinces of Nova Scotia and New Brunswick the said words shall denote the Supreme Court in and for each of the said Provinces respectively.

"Registrar," "Register."

Nineteenthly. The words "Registrar" or "Register" in any Act, applying to the whole Dominion, shall mean and include indifferently Registrars and Registers in the several Provinces constituting the Dominion, and their Deputies, respectively ;

Twentiethly

Digitized by Google

Twentiethly. Any wilful contravention of any Act, which is not made any offence of some other kind, shall be a misdemeanor, and punishable accordingly; Contravention of Acts.

Twenty-firstly. Whenever any wilful contravention of any Act is made an offence of any particular kind or name, the person guilty of such contravention shall, on conviction thereof, be punishable in the manner in which such offence is by law punishable; Punishment for contravention.

Twenty-secondly. Whenever any pecuniary penalty or any forfeiture is imposed for any contravention of any Act,—then, if no other mode be prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of any private party suing as well for the Crown as for himself,—in any form allowed in such case by the law of that Province where it is brought,—before any Court having jurisdiction to the amount of the penalty in cases of simple contract,—upon the evidence of any one credible witness other than the Plaintiff or party interested; And if no other provision be made for the appropriation of such penalty or forfeiture, one half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none, the whole shall belong to the Crown: Recovery of penalties when no other mode is prescribed. Appropriation.

Twenty-thirdly. Any duty, penalty or sum of money, or the proceeds of any forfeiture, which is by any Act given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of Canada and be accounted for and otherwise dealt with accordingly; Crown's share when not otherwise appropriated to form part of Con. Rev. Fund.

Twenty-fourthly. If any sum of the public money be, by any Act appropriated for any purpose or directed to be paid by the Governor General,—then, if no other provision be made respecting it, such sum shall be payable under Warrant of the Governor General directed to the Receiver General, out of the Consolidated Revenue Fund of Canada; And all persons entrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form, with such vouchers, at such periods and to such Officer, as the Governor General may direct; Paying and accounting for moneys appropriated by statute.

Twenty-fifthly. The word "Magistrate" shall mean a Justice of the Peace;—the words "two Justices," shall mean two or more Justices of the Peace, assembled or acting together;—And if any thing is directed to be done by or before a Magistrate or a Justice of the Peace, or other Public Functionary or Officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done:—And whenever power is given to any person, officer or functionary to do or to enforce the doing of any act or thing, all such powers "Magistrate" "Two Justices." Power to do anything to

Digitized by Google

include all necessary powers for doing it.

powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing ;

Imprisonment where to be, when no special place is mentioned.

Twenty-sixthly. If in any Act, any party is directed to be imprisoned or committed to prison, such imprisonment or committal shall, if no other place be mentioned or provided by law, be in or to the common gaol of the locality in which the order for such imprisonment is made, or if there be no common gaol there, then in or to that common gaol which is nearest to such locality ; and the keeper of any such common gaol shall receive such person, and him safely keep and detain in such common gaol under his custody until discharged in due course of Law, or bailed in cases in which bail may by Law be taken ;

Words giving power to appoint include power to remove.

Twenty-seventhly. Words authorizing the appointment of any public officer or functionary, or any deputy, shall include the power of removing him, re-appointing him or appointing another in his stead, in the discretion of the authority in whom the power of appointment is vested ;

Directions to public officer, to apply to his successors and his Deputy.

Twenty-eighthly. Words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his Name of Office, shall include his successors in such Office, and his or their lawful Deputy ;

Appointments by Governor to be during pleasure.

Twenty-ninthly. All officers now appointed or hereafter to be appointed by the Governor General whether by Commission or otherwise shall remain in office during pleasure only, unless otherwise expressed in their Commissions or appointments.

Words constituting a corporation to vest certain powers in it.

Thirtiethly. Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corporation, power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or moveables for the purposes for which the corporation is constituted, and to alienate the same at pleasure ; and shall also vest in any majority of the members of the Corporation the power to bind the others by their acts ; and shall exempt the individual members of the Corporation from personal liability for its debts or obligations or acts, provided they do not contravene the provisions of the Act incorporating them ;—But no Corporation shall carry on the business of banking unless when such power is expressly conferred on them by the Act creating such Corporation ;

Slight deviation from forms not to invalidate.

Thirty-firstly. Where forms are prescribed slight deviations therefrom not affecting the substance or calculated to mislead shall not vitiate them.

Thirty-secondly.

Digitized by Google

Thirty-secondly. Where power to make by-laws, regulations rules or orders is conferred, it shall include the power to alter or revoke the same and make others.

Power to make by laws, what included by.

Thirty-thirdly. No provision or enactment in any Act, shall affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, unless it is expressly stated therein that Her Majesty shall be bound thereby; nor if such Act be of the nature of a private Act, shall it affect the rights of any person or of any body politic, corporate or collegiate, such only excepted as are therein mentioned or referred to.

Acts not to affect the Crown, unless specially declared to do so.

As to Acts of private natnre.

Thirty-fourthly. Every Act shall be so construed as to reserve to Parliament the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever such repeal, amendment, revocation, restriction or modification is deemed by Parliament to be required for the public good; And unless it is otherwise expressly provided in any Act passed for chartering any Bank, it shall be in the discretion of the Parliament at any time thereafter to make such provisions and impose such restrictions with respect to the amount and description of notes which may be issued by such Bank, as to Parliament appears expedient.

Power always reserved to Parliament to repeal or amend any Act.

As to Bank Charters.

Thirty-fifthly. Where any Act is repealed wholly or in part and other provisions substituted, all officers, persons, bodies politic or corporate acting under the old law shall continue to act as if appointed under the new law, until others are appointed in their stead; and all proceedings taken under the old law shall be taken up and continued under the new law when not inconsistent therewith; and all penalties and forfeitures may be recovered and all proceedings had in relation to matters which have happened before the repeal in the same manner as if the law were still in force, pursuing the new provisions as far as they can be adapted to the old law.

Effect of repeal of Act on persons acting under it.

Not to effect certain proceedings.

Thirty-sixthly. The repeal of an Act at any time shall not affect any act done or any right or right of action existing, accruing, accrued or established or any proceedings commenced in a civil cause, before the time when such repeal shall take effect; but the proceedings in such case shall be conformable when necessary to the repealing Act.

As to acts, &c., done before repeal.

Thirty-seventhly. No offence committed and no penalty or forfeiture incurred and no proceeding pending under any Act at any time repealed shall be affected by the repeal, except that the proceedings shall be conformable when necessary to the repealing Act, and that where any penalty, forfeiture or punishment shall have been mitigated by any of the provisions of the repealing Act, such provisions shall be extended and applied to any judgment to be pronounced after such repeal.

Offences committed and penalties incurred not affected by repeal.

Thirty-eighthly.

Digitized by Google

All Acts to be deemed Public Acts, as regards pleading.

Proof of Acts.

Thirty-eigthly. Every Act shall, unless by express provision it is declared to be a Private Act, be deemed to be a Public Act, and shall be judicially noticed by all Judges, Justices of the Peace and others without being specially pleaded ;—And all copies of Acts, public or private, printed by the Queen's Printer, shall be evidence of such Acts and of their contents, and every copy purporting to be printed by the Queen's Printer shall be deemed to be so printed, unless the contrary be shewn ;

Preamble to be a part of Act.

All Acts remedial, and to be construed as such.

Thirty-ninthly. The Preamble of every such Act as aforesaid shall be deemed a part thereof intended to assist in explaining the purport and object of the Act ;—And every Act and every provision or enactment thereof, shall be deemed remedial, whether its immediate purport be to direct the doing of any thing which Parliament deems to be for the public good or to prevent or punish the doing of any thing which it deems contrary to the public good,—and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act and of such provision or enactment according to their true intent, meaning and spirit.

Applicable Rules of construction not excluded.

Fortiethly. Nothing in this Section shall exclude the application to any Act, of any Rule of Construction applicable thereto, and not inconsistent with this Section.

Provisions herein to apply to this Act.

Forty-firstly. The provisions of this Act shall apply to the construction thereof, and to the words and expressions used therein.

Acts to be done by more than two.

8. When any act or thing is required to be done by more than two persons, a majority of them may do it.

DISTRIBUTION OF THE PRINTED STATUTES.

Certified copy of every Act to be furnished to Queen's Printer.

9. The Clerk of the Senate shall furnish Her Majesty's Printer with a certified copy of every Act of the Parliament, of Canada so soon as the same has received the Royal Assent, or if the Bill has been reserved, so soon as the Royal Assent thereto has been proclaimed in Canada.

Printer to distribute printed copies of Acts.

10. Her Majesty's Printer shall, immediately after the close of each Session of Parliament, or so soon after as may be practicable, deliver or transmit by Post, or otherwise, in the most economical mode, the proper number of printed copies of the Acts of Parliament, in the English language or French language, or both languages, (to be printed by him at the public expense,) to the parties hereinafter mentioned, that is to say :

Who shall receive such copies.

To the Members of the two Houses of Parliament respectively, such numbers of copies each, as may from time to time

Digitized by Google

time be directed by any joint Resolution of the said Houses, or in default of such Resolution, in such numbers as shall be directed by order of the Governor General in Council, and to such Public Departments, Administrative Bodies and Officers, throughout Canada, as may be specified in any order to be for that purpose made from time to time by the Governor General in Council;

Provided that when any Bill receives the Royal assent during and before the termination of any Session of Parliament, Her Majesty's Printer shall, on intimation to that effect from the Secretary of State of Canada, cause distribution to be made of such number of copies thereof, to the same parties, and in like manner as is hereinbefore provided, in regard to the Acts of any Session.

As to Bills assented to during and before the end of the session.

11. The Secretary of State of Canada shall, within fifteen days after the close of each Session of Parliament, transmit to Her Majesty's Printer a list of all the Public Departments, Administrative Bodies and Officers to whom such copies are to be transmitted as aforesaid, and shall also, from time to time, as occasion requires, furnish him with copies of all orders in Council made under the provisions of this Act.

List to be furnished of persons to receive copies.

12. If after the distribution of the said printed Acts any copies remain in the hands of Her Majesty's Printer, he may deliver any number thereof to any person by order of the Governor General, on notice thereof by the Secretary of State of Canada,—or to the Members of the Senate or of the House of Commons, on the order of the Speaker of the said Houses respectively.

If any copies remain, &c.

13. The Statutes shall be printed in Royal Octavo Form, on fine paper, in Small Pica Type, thirty-two ems by fifty-five ems, including marginal notes in Minion, such notes referring to the year and chapter of previous Statutes, whenever the text amends, repeals or changes the enactments of former years; and shall be half-bound in Cloth with backs of White Sheep skin and lettered, with the exception of a certain number to be named by the Standing Committee on Printing which shall be bound in half-calf and gilt-lettered, and they shall be arranged for distribution in such manner either by the binding of the Public General Acts, and Acts of a local or private character in separate volumes, or by binding them together in the same volumes with separate indexes or otherwise as the Governor in Council may deem expedient.

How Statutes shall be printed and bound.

Classification of Statutes.

14. Her Majesty's Printer shall, before the opening of each Session of Parliament, make a Report in triplicate to the Governor General, (to be by him laid before each House of Parliament within fifteen days after the opening of such Session), shewing the number of copies of the Acts of each Session which have

Report by Printer as to number of copies distributed.

Digitized by Google

been printed and distributed by him since the then last Session, —and the Departments, Administrative Bodies, Officers and persons to whom the same have been distributed, the number of copies delivered to each, and under what authority, and the numbers of copies of the Acts of each Session then remaining in his hands,—and containing also a detailed account of the expenses by him actually incurred in carrying this Act into effect, to the end that provision may be made for defraying the same, after such account has been duly audited and allowed.

And as to expense incurred by him.

Obligations of parties obtaining private Acts.

15. The party obtaining an Act of a private or personal character shall furnish, at his own cost, one hundred and fifty printed copies of such Act to the Government of Canada.

SHORT TITLE.

Short title.

16. This Act may be cited as "The Interpretation Act."

CAP. II.

An Act respecting the Office of Speaker of the House of Commons of the Dominion of Canada.

[*Assented to 21st December*, 1867.]

Preamble

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

OFFICE OF SPEAKER OF THE HOUSE OF COMMONS OF CANADA.

Speaker leaving the Chair may call upon a member to act as Speaker during his absence.

1. Whenever the Speaker of the House of Commons, from illness or other cause, finds it necessary to leave the chair during any part of the sittings of the said House, on any day, he may call upon any member thereof to take the Chair and to act as Speaker during the remainder of such day, unless the Speaker himself resume the Chair before the close of the sittings for that day; and the member so called upon shall take the Chair and act as Speaker accordingly; and every Act passed and every order made and thing done by the said House of Commons, while such member is acting as Speaker, as aforesaid, shall be as valid and effectual to all intents and purposes, as if done while the Speaker himself was presiding in the Chair.

CAP.

Digitized by Google

CAP. III.

An Act relating to the Indemnity to Members and the Salaries of the Speakers, of both Houses of Parliament.

[*Assented to 21st December*, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. In each session of Parliament, there shall be allowed to each member of the Senate and of the House of Commons attending at such session, six dollars for each day's attendance, if the session do not extend beyond thirty days; and if the session extends beyond thirty days, then there shall be payable to each member of the Senate and of the House of Commons attending at such session, a sessional allowance of six hundred dollars and no more. Allowance to members of either House for attendance at any session.

2. A deduction at the rate of five dollars per day shall be made, from the said sessional allowance, for every day on which the member does not attend a sitting of the House of which he is a member, or of some committee thereof, provided the House sits on such day; but each day during the session, after the first on which the member attends as aforesaid, on which there has been no sitting of such House, in consequence of its having adjourned over such day, or on which the member was in the place where the session was held, but was prevented by sickness from attending any such sitting as aforesaid, shall be reckoned as a day of attendance at such session, for the purposes of this Act; and a member shall, for the purposes aforesaid, be held to be at the place where the session is held, whenever he is within ten miles of such place. Deductions for non-attendance. What shall be reckoned as days of attendance.

3. A member shall not be entitled to the said sessional allowance for less than thirty-one days' attendance reckoned as aforesaid, but his allowance for any less number of days shall be six dollars for each day's attendance. Allowance for less than 31 days' attendance.

4. The said compensation may be paid from time to time as the member becomes entitled to it, to the extent of four dollars for each day's attendance as aforesaid, but the remainder shall be retained by the clerk of the proper House, until the close of the session, when the final payment shall be made. How the indemnity shall be payable.

5. If any person is, from any cause a member of either House for a part only of any session, then provided he is a member for upwards of thirty days during such session, he shall be entitled to the sessional allowance herein before mentioned, subject to the deduction aforesaid for non-attendance as a member, and also to a deduction of five dollars for each day of Case of a member for part of a session provided for.

Digitized by Google

such session before he was elected or after he ceased to be a member; but if he is a member for only thirty days or less, then he shall be entitled only to six dollars for each day's attendance at such session, whatever be the length thereof.

Allowance for mileage.

6. There shall be also allowed to each member of the Senate and of the House of Commons ten cents for each mile of the distance between the place of residence of such member and the place at which the session is held, reckoning such distance going and coming, according to the nearest mail route, which distance shall be determined and certified by the Speaker of the Senate or House of Commons (as the case may be).

Final payment at the close of Session.

Declaration to be made.

7. The sum due to each Member at the close of any Session shall be calculated and paid to him by the Clerk of the House of which he is a Member, on his making and signing, before the Clerk or Accountant or Assistant Accountant of the House, or a Justice of the Peace, a solemn declaration to be kept by the Clerk, stating the number of days' attendance and the number of miles of distance according to the nearest mail route as determined and certified by the Speaker, for which such Member is entitled to the said allowance, and the amount of such allowance after deducting the number of days (if any) which are to be deducted under any preceding section of this Act; and such declaration may be in the form A hereunto annexed, and shall have the same effect as an affidavit in the same form.

Grant for paying the allowance.

8. There is hereby granted to Her Majesty out of any unappropriated moneys forming part of the consolidated Revenue Fund of Canada an annual sum, sufficient to enable Her Majesty to advance to the Clerk of the Senate and the Clerk of the House of Commons respectively, such sums as are required to pay the estimated amount of the sessional allowance hereinbefore mentioned.

Clerks to account for monies received by them.

9. The Clerk of the Senate and the Clerk of the House of Commons shall respectively account for all monies received by them under this Act, in the same manner as for monies advanced to them for the contingent expenses of the said Senate and House of Commons, and they may, respectively, apply any surplus thereof to the payment of such contingent expenses, and may supply any deficiency of such estimated amount out of any monies in their hands respectively applicable to the payment of such contingent expenses.

Special provision for the present session as to allowance.

10. Notwithstanding anything hereinbefore contained, for the present session of Parliament and up to the day of any adjournment for thirty days or upwards, (if such there should be) there shall be allowed to each member of the Senate and of the House of Commons attending at such session, six dollars for each day's attendance for the period of such session prior to such

Digitized by Google

such adjournment; and if the residue of the session, after any such adjournment, shall extend to thirty days or upwards, there shall be payable to each member of the Senate and of the House of Commons attending at such residue of this session, the sessional allowance of six hundred dollars and no more, as if such residue were a session; but if such residue do not extend to thirty days, then there shall be allowed to each Member attending the residue of the session, six dollars for each day's attendance subsequent to such adjournment; provided that any allowance under this section shall be subject to the deductions, and be payable in the manner hereinbefore provided with respect to the ordinary sessions of Parliament. As to residue of session after adjournment.

11. There shall be allowed in respect of travel to and from the present Session of Parliament, as well prior to any adjournment for thirty days or upwards (if such there should be) as for the residue of the Session after any such adjournment, to each Member of the Senate and of the House of Commons ten cents for each mile of the distance between the place of residence of such Member and the place at which such Session is held, reckoning such distance going and coming according to the nearest mail route, which distance shall be determined and certified by the Speaker of the Senate or House of Commons (as the case may be) and such allowance shall be payable in the manner hereinbefore provided. Mileage allowed for both portions of Session.

12. The following salaries shall be payable to the Officers hereinafter mentioned, respectively: Salaries of Speakers.

To the Speaker of the Senate the sum of three thousand two hundred dollars per annum. Senate.

To the Speaker of the House of Commons the sum of three thousand two hundred dollars per annum. Commons.

13. This Act may be cited as the "The Members' Indemnity Act." Short Title.

SCHEDULE FORM A.

I, A. B., One of the members of the Senate (*or* House of Commons,) solemnly declare, that I reside at in which is distant by the nearest mail route miles, as determined by the Speaker of this House, from where the session of Parliament of Canada, which began on the day of one thousand eight hundred and was held—

That the first day during the said session on which I was present, at where the said session was held, was the day of one thousand eight hundred and .

That on the said day and on each day of the said session, after the said day on which there was a sitting of the said House, I attended such sitting, or a sitting of some Committee thereof,*

Digitized by Google

thereof,* except only on days ** on of which I was prevented by sickness from attending as aforesaid, though I was then present at ***

(*Signature,*) A. B.

Declared before me at this day of one thousand eight hundred and

C. D.,

Clerk (*or* Accountant *or* Assistant Accountant) of the Senate (*or* House of Commons) *or* Justice of the Peace for the of (*as the case may be*

If the member attended a sitting of the House or of some Committee on every sitting day after the first on which he so attended, omit the words from * to *** ;—and if his non-attendance was not on any day occasioned by sickness, omit the words from ** to ***

If the person making the declaration became or ceased to be a member after the commencement of the session, vary the form, so as to state correctly the facts upon which the sum due to the member is to be calculated.

CAP. IV.

An Act for granting to Her Majesty a certain sum of money required for defraying the expenses of the Public Service not otherwise provided for, for the period therein mentioned, for certain purposes respecting the Public Debt; and for raising money on the credit of the Consolidated Revenue Fund.

[*Assented to 21st December*, 1867.]

Most Gracious Sovereign:

Preamble.

WHEREAS it appears by message from His Excellency the Right Honorable Charles Stanley Viscount Monck, Governor General of the Dominion of Canada, and the estimates accompanying the same, that the sum hereinafter mentioned is required to defray the expenses of the Public Service of the Dominion not otherwise provided for, for the period hereinafter mentioned; May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, that—

$5,264,279 appropriated towards expenses of public service from 1st July

1. From and out of the Consolidated Revenue Fund of Canada, there shall and may be applied a sum not exceeding five million, two hundred and sixty-four thousand, two hundred and seventy-nine dollars, towards defraying the Expenses of the

Digitized by Google

the Public Service of the Dominion not otherwise provided for, from the first day of July in the year of Our Lord one thousand eight hundred and sixty-seven, to the thirty-first day of March in the year of Our Lord one thousand eight hundred and sixty-eight.

1867, to 31st March, 1868.

2. The Governor in Council may from time to time, as the interests of the public service require, authorize the redemption or purchase by or on account of the Dominion, of any debt or liability of the late Province of Canada, or of the Province of Nova Scotia or of New Brunswick, existing at the Union,—and whether the same be in stock, debentures, notes of a Province in circulation, indebtedness to Saving Banks, or of any other description whatever:—and may for that purpose or for the purpose of covering any debt of the Dominion on open Account, from time to time, issue New Stock, Debentures, Notes or other security to an amount not exceeding the debt or liability as aforesaid so to be redeemed, purchased, or covered; and the stock, debentures, notes or securities, to be issued for any of such purposes shall bear such rate of interest not exceeding six per centum per annum, and be made payable in sterling money or currency, and at such times and places, and may be in such form, as may be directed by the Governor in Council, and the principal and interest thereof shall be a charge upon and payable out of the Consolidated Revenue Fund; but the amount of any Stock, Debentures, Notes or Securities to be so issued under the authority of the Governor in Council, shall never at any one time exceed the amount of the debts or liabilities to be redeemed, purchased or covered at such time, to the intent that the public debt of Canada shall not be increased under the provisions of this section.

Governor in Council may from time to time issue Debentures, Stock, &c., pay off or redeem liabilities of the Dominion then outstanding.

Proviso: Public debt not to be increased.

3. The Governor in Council may authorize the raising of a sum of money not exceeding five million dollars, upon the credit of the Consolidated Revenue Fund of Canada, and to be a charge upon the same, but subject to the several payments by the British North America Act, 1867, charged on the Consolidated Revenue Fund of Canada, and as a subsequent charge next after those specified in sections one hundred and three, one hundred and four and one hundred and five of that Act, and after any loan raised for the construction of the Intercolonial Railway under the provisions of the Canada Railway Loan Act 1867, and the charges constituted in respect of such loan by any Act of the Parliament in Canada, (and in addition to the Public Debt of Canada as constituted by the one hundred and eleventh section of the British North America Act, 1867;) and the Governor in Council may authorize the raising of such sum by any of the methods following or partly by one and partly by another or others of such methods, that is to say: by the issue, or issue and sale of Stock, or of Debentures or of Exchequer Bills, or Exchequer Bonds or by the granting of Terminable Annuities; any of which said securities shall

Governor in Council may authorize the raising of money on the Credit of the Consolidated Revenue Fund, to the amount of $5,000,000, and by what means.

Digitized by Google

shall be in such form and be made payable for such sums and bearing such rate of interest not exceeding six per centum per annum, and for or redeemable at such periods of time respectively, as the Governor in Council may deem expedient; and all sums of money so raised shall form part of the Consolidated Revenue Fund of Canada.

May raise temporary loans to cover deficiencies in the said Fund to meet the charges thereon.

4. The Governor in Council may, from time to time, as the exigencies of the public service require, in the event of the Consolidated Revenue Fund being at any time insufficient to meet the charges placed thereon by law, direct the proper officers to raise by temporary loans chargeable on the said Fund, in such manner and form, in such amounts, payable at such periods and at such rates of interest not exceeding six per cent per annum, as the Governor in Council may direct, such sums as may be necessary to enable the said Fund to meet such charges,—but the sums to be so raised shall never exceed the amount of the deficiencies in the Consolidated Revenue Fund to meet the charges thereon then due and payable, either as principal or interest, and shall be applied to no other purpose whatever, to the intent that the public debt shall not be increased by any such loan.

May create a permanent Canada Dominion Stock.

5. The Governor in Council may authorize the creation of a permanent stock to be known as the "Canada Dominion Stock," bearing such rate of interest not exceeding six per cent. per annum, as may be deemed most advisable, payable half-yearly, and chargeable on the Consolidated Revenue Fund; the said Stock not to be redeemable in less than ten years, but at and after that time to be redeemable at the option of the Governor in Council, on giving six months' notice of such redemption, and to be subject to such regulations as to the inscription, transfer, management and redemption thereof, as the Governor in Council may see fit to make.

May grant terminable annuities.

6. The Governor in Council may authorize the granting of Terminable Annuities chargeable on the Consolidated Revenue Fund of the Dominion, such Annuities being granted on terms in accordance with the most approved English Tables, and based on a rate of interest not exceeding six per centum per annum; the proceeds thereof to form part of the said Consolidated Revenue Fund.

May authorize the issue of exchequer Bills or Bonds.

7. The Governor in Council may from time to time authorize the issue and sale of Exchequer Bills or Exchequer Bonds, in sums of not less than four hundred dollars, and bearing such rate of interest not exceeding six per centum per annum; and redeemable at such periods, and of such form as the Govenor in Council may approve, the proceeds whereof shall form part of the said Consolidated Revenue Fund.

Digitized by Google

8. The said Stock, Terminable Annuities and Exchequer Bills or Exchequer Bonds, may be issued, granted and sold for the purposes of this Act, to the extent hereby authorized and subject to the provisions herein made, and not for any other purpose or to any greater extent without the further authority of Parliament.

For what purposes only such stock, &c., may be issued and sold.

9. A detailed account of the moneys expended under the authority of this Act, shall be laid before the House of Commons during the first fifteen days of the session of Parliament next after such expenditure.

Accounts to be laid before Parliament.

CAP. V.

An Act respecting the collection and management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants.

[*Assented to 21st December*, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Preamble.

PRELIMINARY—INTERPRETATION.

1. In this Act, the words "Public Revenue" or "Revenue," mean and include and apply to all Revenue of the Dominion of Canada, and all branches thereof, and all public moneys, whether arising from duties of Customs or other duties,—or from the Post Office,—or from Tolls for the use of any Canal, Railway, or other public work,—or from penalties or forfeitures,—or from any rents or dues,—or any other source whatsoever,—whether such moneys belong to the Dominion or are collected by officers of the Dominion for or on account of or in trust for any Province forming part of the Dominion, or for the Imperial Government, or for any other party:

Interpretation.

2. And any officer, functionary or person whose duty it is or has been to receive any moneys forming part of the Revenue, or who is or has been entrusted with the custody or expenditure of any such moneys, whether before or after the Union of the Provinces now forming the Dominion of Canada,—although he may not be or have been regularly employed in collecting, managing or accounting for the same,—shall be subject to the provisions of this Act, so far as regards the accounting for and paying over such moneys, whatever be the office or employment by virtue of which he receives or has received, or is or was entrusted with the same.

Who shall be subject to this Act.

COLLECTION AND MANAGEMENT OF THE REVENUE.

3. The Governor in Council may from time to time determine what officers or persons it is necessary to employ in

Governor to determine what

Digitized by Google

officers are necessary, &c.

in collecting, managing or accounting for the Revenue, and in carrying into effect the laws thereunto relating, or for preventing any contravention of such laws, and may assign their names of office, and such salaries or pay for their labour and responsibility in the execution of the duties of their respective offices and employments, as to the said Governor in Council seems reasonable and necessary, and may appoint the times and manner in which the same shall be paid; But no such officer so appointed shall receive a higher annual salary than is allowed in his case by any Act of the Parliament of Canada, respecting the Civil Service generally, then in force, nor shall any such salary be paid until voted by Parliament.

Proviso as to salaries.

No fees allowed.

3. The salary or pay allowed to any such officer or person as aforesaid shall be in lieu of all fees, allowances or emoluments of any kind whatsoever, except actual and authorized disbursements, shares of seizures, forfeitures and penalties; And no such officer or person, receiving a salary at or exceeding the rate of one thousand dollars per annum, shall exercise any other calling, profession, trade or employment whatsoever, with a view to derive profit therefrom, directly or indirectly, or shall hold any other office of profit whatsoever, except in either case, with the express permission of the Governor General in Council.

Officers to give their whole time.

Exception.

Exemption from certain services.

4. No officer or person regularly employed in the collection or management of the Revenue, or in accounting for the same, shall, while he remains such officer or so employed, be compelled to serve in any other public office or in any municipal or local office, or on any jury or inquest, or in the militia.

Oath of office.

5. Every person appointed to any office or employment relative to the collection or management of the Revenue, or in accounting for the same, shall, at his admission to such office or employment, take the following oath, before such officer as the Governor may appoint to receive the same, that is to say:

Form.

"I, A. B., do swear to be true and faithful in the execution, "to the best of my knowledge and power, of the trust committed "to my charge, by my appointment as , and "that I will not require, take or receive any fee, perquisite, "gratuity or reward, or emolument whether pecuniary or of any "other sort or description whatever, either directly or indirectly, "for any service, act, duty, matter or thing done or performed or "to be done or performed in the execution or discharge of any "of the duties of my said office or employment, on any account "whatever, other than my salary, or what shall be allowed "me by law, or by order of the Governor of this Dominion in "Council.—So help me God."

Governor in Council to divide Canada

6. The Governor in Council may, from time to time, make all such divisions of the Dominion into ports, revenue districts

Digitized by Google

districts or otherwise, as may be required with regard to the collection or management of the Revenue,—and may assign the officers or persons by whom any duty or service relative to any such purpose shall be performed within or for any such district or division, and the place or places within the same, where such duty or service shall be performed,—and may make all such regulations concerning such officers and persons, and the conduct and management of the business to them entrusted, as are consistent with the law, and as he deems expedient for carrying it into effect, in the manner best adapted to promote the public good; And any general regulation or order made by the Governor in Council for any purpose whatever for which an order or regulation may be so made under the provisions of this Act, shall apply to each particular case within the intent and meaning of such general regulation or order, as fully and effectually as if the same had been made with reference to such particular case, and the officers, functionaries or parties concerned had been specially named therein:

into Ports, districts, &c., for Revenue purposes and make regulations.

2. A printed copy of any regulation or order of the Governor in Council, printed by the Queen's Printer, or a written copy thereof attested by the signature of the Clerk of the Queen's Privy Council for Canada, shall be evidence of such regulation or order; And any order in writing, signed by the Secretary of State for Canada, and purporting to be written by command of the Governor, shall be received in evidence as the order of the Governor.

Proof of Regulations.

7. Every person employed on any duty or service relating to the collection or management of the Revenue, by the orders or with the concurrence of the Governor in Council, shall be deemed to be the proper officer for that duty or service; And every act, matter or thing required by any law in force to be done or performed by, to, or with any particular officer nominated for that purpose in such law, being done or performed by, to, or with any person appointed or authorized by the Governor in Council to act for or in behalf of such particular officer, shall be deemed to be done or performed by, to or with such particular officer:

Officers employed to be deemed the proper officers.

2. And every act, matter or thing required by any law at any time in force, to be done or performed at any particular place within any port, or within any other such district or division of the Dominion as aforesaid, being done or performed at any place within such port, district or division, appointed by the Governor in Council, for such purpose, shall be deemed to be done or performed at the particular place so required by law.

As to place at which any duty is to be performed.

8. Any officer or person employed in the collection, management or accounting for any branch of the Revenue, may be employed

Officers of one service may be

employed in another.

employed in the collection, management or accounting for any other branch thereof, whenever it is deemed advantageous for the public service so to employ him.

Hours of office, &c.

9. The Governor in Council may, from time to time, appoint the hours of general attendance of the officers and persons employed in the collection and management of the Revenue, at their proper offices and places of employment,—and may also appoint the times during such hours, or the seasons of year, at which any particular portions of the duties of such officers or other persons shall be performed by them respectively; And a notice of the hours of general attendance so appointed shall be kept constantly posted up in some conspicuous place in such offices and places of employment.

Holidays.

10. No day shall be kept as a public holiday by the officers and persons employed in the collection and management of the Revenue, except Christmas day, New Year's day and Good Friday in every year,—any day appointed by Proclamation of the Governor for the purpose of a general fast, or of a general thanksgiving,—such days as are appointed for the celebration of the birth-day of Her Majesty and Her Royal Successors,—and such other days as may be from time to time appointed as holidays by the Governor in Council.

Accounts for statistical purposes.

11. The Governor in Council may direct any officer or person employed in collecting, managing or accounting for any branch of the Revenue, to keep any Books or accounts which he deems it advisable to direct to be kept for the purpose of obtaining any statistical information concerning the trade or commerce of the Dominion, the public works thereof, or other matters of public interest, and may authorize and allow any necessary expense incurred for such purpose.

Paying over public money.

12. All public moneys, from whatever source of revenue derived,—shall be paid to the credit of the Receiver General through such officers, banks or parties, and in such manner, as the Governor in Council may from time to time direct and appoint.

Time and mode of so paying.

13. The Governor in Council may, from time to time, appoint the times and mode in which any officer or person employed in the collection, management of or the accounting for any part of the revenue shall account for and pay over the public moneys which come into his hands,—and may determine the times, manner and form in which, and the officer by whom, any Licenses on which any duty is payable, are to be issued;—Provided that such accounts and payments shall be rendered and made by such officers and persons respectively at least once in every three months.

14.

Digitized by Google

14. Every Officer of the Customs or of Inland Revenue or Excise or otherwise employed in the Collection of the Revenue, receiving money for the Crown, shall deposit the same in his name of office, from time to time, in such Bank as the Governor in Council may appoint,—and no money so deposited shall be paid out again, except for the purpose of being placed to the credit of the Receiver General, on the written order or check of the officer so depositing, or his successor, to whom the Bank shall grant a certificate in duplicate of its being so credited; And every such Officer shall keep his Cash-book written up daily; and all the books, accounts and papers of such officer shall at all times during office hours be open to the inspection and examination of any officer or person whom the Minister of Finance may authorize to inspect or examine the same; Provided, that where such money is received at a place where there is no Bank into which it can conveniently be paid, the Governor in Council may direct it to be paid over in such manner as he may deem expedient.

Payment into Banks.

Cash-books.

Proviso. Where there s no Bank.

15. The expenditure of moneys out of the Public Chest shall always be made by check on some Bank, upon the warrant of the Governor in Council, such check being signed by the Receiver General and countersigned by the Minister of Finance or their respective deputies thereunto duly authorized.

How public money shall be paid out.

BOARD OF AUDIT, AND ITS POWERS AND DUTIES.

16. The Governor may, by Letters Patent under the Great Seal of Canada, constitute and appoint, during pleasure, a Board of Audit, whose duty it shall be, under the direction and supervision of the Minister of Finance, from time to time to report on any Accounts laid before the said Board, as hereinafter provided.

Appointment of Board, &c.

17. The said Board shall consist of the Deputy Inspector General, the Deputy Postmaster General, the Commissioner of Customs, the Commissioner of Inland Revenue, the Deputy Receiver General, the Deputy of the Minister of Public Works, the Deputy of the Minister of Militia, the Deputy of the Minister of Marine and Fisheries, and an Auditor to be appointed by the Governor who shall be the Chairman of the Board.

Of whom to to consist.

18. It shall be the duty of the Commissioner of Customs, as a member of the Board of Audit, to examine and check the Returns of the Officers of Customs, and their accounts of expenses of collection and contingencies; and it shall be the duty of the Commissioner of Inland Revenue, as a member of the Board, to examine and check the Returns of the officers of Inland Revenue and Excise, and their accounts of expenses of collection and management.

Duties of Commissioners of Customs and Inland Reve- Revenue.

19.

Digitized by Google

Of certain other Deputy Heads of Departments.

19. The Deputy Postmaster General, the Deputy of the Minister of Public Works, the Deputy of the Minister of Militia, and the Deputy of the Minister of Marine and Fisheries, shall respectively audit the details of the accounts of their several departments in the first instance, and be responsible for the correctness of such Audit.

Of Deputy Receiver General.

20. The Deputy Receiver General shall keep the account with the Financial Agents of the Dominion in England, and with the Bank or Banks receiving or paying public moneys, and shall audit the accounts of moneys paid for interest on Canadian Stock, Debentures or other Canadian Securities.

Of Deputy Inspector General.

21. It shall be the duty of the Deputy Inspector General, to prepare all Money Warrants on the certificate of the Auditor,—to countersign all Canadian Debentures, Receiver General's Cheques and Receipts,—to keep a Debenture Book, which shall contain a record and description of all Debentures outstanding or to be issued, shewing the date of issue, period of redemption, when cancelled, and payment of interest, and also a Register of Provincial Notes or Notes of the Dominion issued or cancelled,—and an Interest Account;—to classify all appropriations of Public Moneys and keep posted up a Book to be called The Appropriation Book, containing an account, under separate and distinct heads, of every such appropriation, whether permanent or temporary, entering under each head the amounts drawn on account of such appropriation with the dates and names of the parties to whom Warrants are issued,—to examine and audit the accounts current of the Officers of Customs and Inland Revenue or Excise,—and to keep the Public Accounts of the Dominion.

Duties of Auditor as to accounts.

22. It shall be the duty of the Auditor to examine, check and audit all other Accounts of the Receipt and Expenditure of Public Monies, whether appertaining to the Dominion of Canada, or received or expended by the Dominion on account of or in trust for any other party or parties; and all Receipts and Expenditure which by the foregoing sections are required to be primarily audited by other Members of the Board of Audit shall nevertheless be submitted to the Auditor for final audit, and Review :—

Register of Bank Notes, &c.

2. He shall also keep a Register of Bank Notes issued and securities held under the provisions of the Free Banking Act of the late Province of Canada; and all Returns and Statements required from Savings Banks, Chartered or other Banks, and all other Institutions required by law to make financial Statements or Returns, shall be transmitted to him.

Case of difference of opinion of Auditor and

23. In case of any difference of opinion between the Auditor and any other Member of the Board on any point connected with the Accounts of the Department in charge of such other

Digitized by Google

other Member, the matter shall be submitted to the Board; and nothing herein contained shall prevent any member from bringing any question of audit before the Board although it may not relate to the Department under his charge: any other member.

2. Upon all matters of importance the Board shall report to the Minister of Finance, and no decision of the Board shall be binding until it has been approved by him; and when any such report is made, any Member of the Board may record his dissent on the minutes and may submit to the Minister of Finance a minority report. Reports to Minister of Finance.

24. It shall also be the duty of the said Board to examine and cancel debentures redeemed; the Board shall meet at least once in each month for the purposes of this Act, and the Auditor may call an extra meeting of the Board on the requisition of any member thereof. Cancelling debentures redeemed.

25. The Governor may, in case of the illness or absence of any Member of the Board, authorize any officer of the same department to perform all or any of the duties of the absent member as such. Case of absence of members provided for.

26. It shall be the duty of the Board of Audit to frame Regulations respecting the method of Book-keeping to be used in the several departments and by the several sub-accountants of the Dominion, the issuing of warrants, the accounting for public moneys, and the auditing of accounts thereof, and to submit such Regulations to the Governor in Council through the Minister of Finance, and from time to time to suggest any amendments they may deem advisable in such Regulations, and to submit them in like manner; and any Order in Council made on any of the subjects aforesaid, shall have the force of law until revoked or amended, as it may be, by any subsequent Order. Board to frame system of Book keeping, to be used in departments, &c. Regulations.

27. It shall be the duty of the Board of Audit to prepare and submit to the Minister of Finance the Public Accounts to be annually laid before Parliament. To prepare Public Accounts.

28. The said Public Accounts shall include the period from the thirtieth of June in one year to the thirtieth of June in the next year, which period shall constitute the Financial Year; all Estimates submitted to Parliament shall be for the services coming in course of payment during the financial year; and all balances of appropriation which remain unexpended at the end of the financial year, shall lapse and be written off. Financial year. Unexpended balances to lapse.

29. The Governor in Council may alter the period at or to which any Accountant for public moneys, Public Officer, Corporation or Institution, is required to render any account or to make any return, whenever in his opinion such alteration will Governor in Council may alter period for accounting.

Digitized by Google

will facilitate the correct preparation of the Public Accounts or Estimates for the financial year, anything in any Act to the contrary notwithstanding.

Power to examine persons on oath.

30. The Board of Audit shall have full power and authority to examine any person on oath or affirmation on any matter pertinent to any account submitted to it for Audit, and such oath or affirmation may be administered to any person by any Member of the Board.

To obtain writs of summons.

31. Any Member of the Board duly authorized by it, may apply, in term or in vacation, to any Judge of the Superior Court for the Province of Quebec, or of any one of the Superior Courts of Common Law in any of the Provinces of Ontario, Nova Scotia or New Brunswick, for an order that a subpœna be issued from the Court, commanding any person therein named to appear before the said Board at the time and place mentioned in such subpœna, and then and there to testify to all matters within his knowledge relative to any account submitted to the said Board, and (if the Board so desire) to bring with him and produce to the Board any document, paper or thing which he may have in his possession relative to any such account as aforesaid; and such subpœna shall issue accordingly upon the order of such Judge; And any such witness may be summoned from any part of Canada whether within or without the ordinary jurisdiction of the Court issuing the subpœna.

Or to issue commissions to examine witnesses.

32. If by reason of the distance at which any person whose evidence is required by the said Board resides from the place where its sittings are held, or for any other cause, the Board deems it advisable, they may issue a Commission, under the hands and seals of any two Members of the Board, to any officer or person therein named, empowering him to take such evidence, and report the same to them; And such officer or person, being first sworn before some Justice of the Peace faithfully to execute the duty entrusted to him by such Commission, shall, with regard to such evidence, have the same powers as the Board or any Member thereof would have had if such evidence had been taken before the Board, and may, in like manner, apply to and obtain from any Judge of any of the Courts aforesaid, a subpœna for the purpose of compelling the attendance of any person, or the production of any document, paper or thing before him; And such subpœna shall issue accordingly on the order of such Judge, or such subpœna may issue on the application of any Member of the said Board autherized to make such application, to compel such attendance, or the production of any document, paper or thing before such Commissioner.

Punishment of persons refusing to attend.

33. If any person summoned in the manner hereinbefore provided to attend before the said Board of Audit or any Commissioner appointed as aforesaid, fails, without valid excuse, to

Digitized by Google

to attend accordingly,—or, being commanded to produce any document, paper or thing in his possession, fails to produce the same,—or refuses to be sworn or to answer any lawful and pertinent question put to him by the Board or by such Commissioner, such person shall, for each such offence, forfeit the sum of one hundred dollars to the Crown, for the public uses of the Dominion, to be recovered in any manner in which debts due to the Crown can be recovered, and may likewise be dealt with by the Court out of which the subpœna issued, as having refused to obey the process of such Court, and as being guilty of a contempt thereof.

SPECIAL DUTIES OF THE AUDITOR.

34. It shall be the duty of the Auditor to see that no warrant issues for the payment of any public money for which there is no direct parliamentary appropriation, or in excess of any portion of such appropriation the expenditure of which has been authorized by the Governor in Council; and he shall report to the Governor in Council through the Minister of Finance, any case in which a sub-accountant has expended money out of the proceeds of any accountable warrant, for any purpose for which there is no legislative authority or beyond the amount for which there is such authority.

To see that appropriations are not exceeded.

35. No money warrant shall issue except upon the certificate of the Auditor that there is parliamentary authority for the expenditure, save only in the following cases:

No money warrant except on his certificate.

1. If upon any application for a warrant, the Auditor has reported that there is no parliamentary authority for issuing it, then upon the written opinion of the Law Officer of the Crown, that there is such authority, citing it, the Minister of Finance may authorize the Deputy Inspector General to prepare the warrant irrespective of the Auditor's report;

Exception. Opinion of Attorney General.

2. If when Parliament is not in session, any accident happens to any public work or building which requires an immediate outlay for the repair thereof, or any other occasion arises when any expenditure not foreseen or provided for by Parliament is urgently and immediately required for the public good, then upon the Report of the Minister of Finance that there is no parliamentary provision, and of the Minister having charge of the particular service in question, that the necessity is urgent, the Governor in Council may order a special warrant to be prepared, to be signed by the Governor himself, for the issue of the amount estimated to be required, which shall be placed by the Receiver General to a special account, against which warrants may issue from time to time in the usual form, as they may be required.

Exception. Accidents or sudden emergency.

Digitized by Google

Duty of Auditor in such cases.

3. It shall be the duty of the Auditor in all such cases to prepare a statement of all such legal opinions, reports of Council and special warrants, and of all expenditure incurred in consequence thereof, which he shall deliver to the Minister of Finance to be by him presented to Parliament not later than the third day of the session thereof then next ensuing.

Minister of Finance to judge of objections in certain cases.

36. If the Auditor has refused to certify that a warrant may issue, on the ground that the money is not justly due, or that it is in excess of the authority granted by Council, or for any reason other than that there is no parliamentary authority, then upon a report of the Board of Audit, upon the case, the Minister of Finance shall be the judge of the sufficiency of the Auditor's objection and may sustain him or order the issue of the warrant, in his discretion.

LIABILITY OF PUBLIC ACCOUNTANTS AND REVENUE OFFICERS,—CIVILLY.

Penalty for not accounting as required by law.

37. If any corporation, officer or person refuses or neglects to transmit any account, statement or return, with the proper vouchers, to the officer or department to whom he is lawfully required to transmit the same, on or before the day appointed for the transmission thereof, such corporation, officer or person shall, for such refusal or neglect, forfeit and pay to the Crown, for the public uses of the Dominion, the sum of one hundred dollars, to be recovered, with costs, as a debt due to the Crown, and in any court and in any way in which debts to the Crown can be recovered; And in any action for the recovery of such sum, it shall be sufficient to prove, by any one witness or other evidence, that such account, statement or return ought to have been transmitted by the defendant, as alleged on the part of the Crown, and the onus of proving that the same was so transmitted shall rest upon the defendant.

Onus of proof.

Notice to persons neglecting to pay over.

38. Whenever the Minister of Finance has reason to believe that any officer or person has received money for the Crown, or for which he is accountable to the Crown, or has in his hands any public money applicable to any purpose, and has not paid over or duly applied and accounted for the same,—he may direct a notice to such officer, or person, or to his representative in case of his death, requiring him, within a time to be therein named, and not less than thirty nor more than sixty days from the service of such notice, to pay over, or apply and account for such money to the Minister of Finance or to the Officer to be mentioned in the notice, and to transmit to him the proper vouchers that he has so done:

Service of notice.

2. Such notice shall be served by the Sheriff of the district or county where the service is made, or his deputy, by delivering a copy to the officer or person to whom it is addressed, or leaving it for him at his usual place of abode; and the return of

Digitized by Google

of the Sheriff with an affidavit of such service, shall be conclusive evidence thereof.

39. If any officer or person fails to pay over, apply or account for any such money, and to transmit such vouchers as aforesaid within the time limited by the notice served on him,—the Minister of Finance shall state an account as between such officer or person and the Crown in the matter to which the notice relates, charging interest from the service thereof, and shall deliver a copy thereof to Her Majesty's Attorney General for Canada, and such copy shall be sufficient evidence to support any information or other proceeding for the recovery of the amount therein shewn to be in the hands of the defendant, as a debt due to the Crown, saving to the defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence ;—and the defendant shall be liable to the costs of such information or proceeding, whatever be the judgment therein, unless he proves that before the time limited in such notice, he paid over or applied and duly accounted for the money therein mentioned, and transmitted the proper vouchers with such account, or unless he be sued for the same in a representative character, and is not personally liable for such money, or to render such account.

Proceedings against persons refusing to obey notice.

Costs.

40. Whenever any such officer or person as aforesaid has transmitted an account, either before or after notice as aforesaid, but without vouchers or with insufficient vouchers for any sum for which he therein takes credit,—the Minister of Finance may notify such officer or person, in the manner mentioned in the next preceding section but one, to transmit vouchers, or sufficient vouchers, within thirty days after the service of the notice ; And if such vouchers are not transmitted within that time, the Minister of Finance may state an account against such officer or person, disregarding the sums for which he has taken credit but for which he has transmitted no vouchers or insufficient vouchers, and may deliver a copy of such account to Her Majesty's Attorney General for Canada, and such copy shall be sufficient evidence to support an information or other proceeding for the recovery of the amount therein shewn to be in the hands of the defendant, saving to the defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence ;—but such defendant shall be liable to the costs of the information or proceeding, whatever be the judgment therein, unless the vouchers by him transmitted within the time limited by the notice served on him, or before such service, are found of themselves sufficient for his defence, and for his discharge from all sums demanded of him :

Proceedings in case of insufficient vouchers.

2. The said notice shall be served and the Sheriff's return of service shall be of the like effect as provided in the next preceding section but one with regard to the notice therein mentioned.

Service of notice.

Digitized by Google

Proceedings in case of public money clearly appearing not to be paid over in due course.

41. If at any time it appears clearly, by the books or accounts kept by or in the office of any officer or person employed in the collection or management of the Revenue or in accounting for the same, or by his written acknowledgment or confession,—that such officer or person hath by virtue of his office or employment received moneys belonging to Her Majesty, and amounting to a sum certain, which he hath refused or neglected to pay over to the officer duly appointed to receive the same, and in the manner and at the time lawfully appointed,—then upon affidavit of the facts, by any officer cognizant thereof, and thereunto authorized by the Governor in Council, made before a Justice or Judge of any Court having jurisdiction in civil matters to the amount of the sum so ascertained as aforesaid,—such Justice or Judge shall cause to be issued against and for the seizure and sale of the goods, chattels and lands of the officer or person so in default as aforesaid, such writ or writs as might have issued out of such Court, if the bond given by him had been put in suit, and judgment had been thereupon obtained in favour of Her Majesty, for a like sum, and any delay by law allowed between judgment and execution had expired; and such writ or writs shall be executed by the Sheriff or other proper officer, and such sum as aforesaid shall be levied under them with costs, and all further proceedings shall be had, as if such judgment as aforesaid had been actually obtained.

Unapplied public money to be paid back.

42. If any officer or person has received public money for the purpose of applying it to any specific purpose, and has not so applied it within the time or in the manner provided by law,—or if any person having held any public office and having ceased to hold the same, has in his hands any public money received by him as such officer for the purpose of being applied to any specific purpose to which he has not so applied it,—such officer or person shall be deemed to have received such money for the Crown for the public uses of the Dominion, and may be notified by the Minister of Finance to pay such sum back to the Receiver General, and the same may be recovered from him as a debt to the Crown, in any manner in which debts to the Crown may be recovered,—and an equal sum may in the meantime be applied to the purpose to which such sum ought to have been applied.

Recovery if not paid.

Liability for loss occasioned by neglect, &c.

43. If by reason of any malfeasance, or of any gross carelessness or neglect of duty, by any officer or person employed in the collection or management of the Revenue, or in collecting or receiving any moneys belonging to the Crown, for the public uses of the Dominion, any sum of money is lost to the Crown,—such officer or person shall be accountable for such sum as if he had collected and received the same, and it may be recovered from him on proof of such malfeasance, gross carelessness or neglect, in like manner as if he had so collected and received it.

44.

Digitized by Google

44. Nothing in this Act shall weaken or impair any remedy which the Crown has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown, for the public uses of the Dominion, and in the possession of any officer or person whomsoever, by virtue of any other Act or Law.

Crown remedies not affected.

CRIMINAL LIABILITY.

45. If any officer or any person acting in any office or employment connected with the collection and management of the Revenue or the accounting for the same, takes or receives directly or indirectly, any fee, perquisite, gratuity or reward, whether pecuniary or of any other sort or description whatever, from any person (not being an officer or person legally authorized to pay or allow the same,) on account of any thing done by him in any way relating to his office or employment, except such as he receives by order or with the permission of the Governor in Council,—every such officer or person so offending shall, on proof to the satisfaction of the Governor, be dismissed from his office or employment;—And if any person (not being an officer duly authorized to pay or allow the same,) gives, offers or promises any such fee, perquisite, gratuity or reward,—such person shall, for every such offence, incur a penalty of four hundred dollars, which shall be recoverable in any Court having jurisdiction in civil cases to a like amount.

No officers to receive any fee, &c.

Penalty for offering fee, &c.

46. All books, papers, accounts and documents of what kind soever, and by whom and at whose cost soever the paper and materials thereof have been procured or furnished,—kept by or used, or received or taken into the possession of any officer or person employed or having been employed in the collection or management of the Revenue or in accounting for the same, by virtue of his employment as such,—shall be deemed to be chattels belonging to Her Majesty,—and all moneys or valuable securities received or taken into his possession by virtue of his employment shall be deemed to be moneys and valuable securities belonging to Her Majesty:

Books, &c., to be H. M. property.

2. If any such officer or person at any time fraudulently embezzles any such chattel, money or valuable security,—(and any refusal or failure to pay over or deliver up any such chattel, money or valuable security to any officer or person who, being duly authorized by the Governor in Council, demands the same, shall be a fraudulent embezzlement thereof,)—he shall be deemed to have feloniously stolen the same and may be indicted and proceeded against, and being convicted thereof shall be liable to be punished, in the same manner as any servant who having fraudulently embezzled any chattel, money or valuable security, received or taken into his possession by virtue of his employment, for or on the account of his master and being in law deemed to have feloniously stolen the same, may be indicted, proceeded against and punished;

Officers embezzling money, &c.

3.

Digitized by Google

Other remedies not impaired.

3. Nothing herein contained shall prevent, lessen or impeach any remedy which Her Majesty or any other party has against such offender or his sureties, or against any other party whomsoever ;—but nevertheless the conviction of any such offender shall not be received in evidence in any suit, or action at law or in equity, against him.

MISCELLANEOUS PROVISIONS.

Before whom oaths or affirmations may be taken, &c.

47. In all cases wherein proof on oath or by affirmation or declaration is required by any law relating to the collection or management of the Revenue or to the accounting for the same, or is necessary for the satisfaction or consideration of the Governor in Council, in any matter relating to the collection or management of the Revenue or to the accounting for the same, and no person or officer is specially named as the officer or person before whom the same is to be made,—it may be made before any Collector or Chief officer of the Customs for the port or place where such proof is required, or before the persons acting for them respectively, or before such other officer or person as may be appointed to receive the same by the Governor, and such officers and persons shall administer such oath or affirmation or receive such declaration ; And in any case or class of cases where an oath is required by this Act or by any law in force, in any matter relating to the collection or management of the Revenue or the accounting for the same, the Governor in Council, if he deems it fit, may authorize the substitution for such oath, of a solemn affirmation or of a declaration, which shall then avail to all intents and purposes as such oath would have done.

Affirmation or declaration may be substituted for oath by Order in Council.

Inquiries concerning Revenue matters.

48. Upon all examinations and inquiries made by order of the Governor in Council, for ascertaining the truth as to any fact relative to any matter concerning the collection or management of the Revenue, or the accounting for the same, or the conduct of officers or persons employed therein,—and upon like examinations and inquiries made by the Collector of Customs, or by the chief officer employed in the collection and management of the Revenue, in or at any port, district or place, or by any person or officer authorized by the Governor in Council to make such examinations and inquiries,—any person to be examined as a witness shall deliver his testimony on oath to be administered to him by the officer or person making the examination or inquiry.

Penalty for false statement, &c.

2. And any person wilfully making any false statement, in any such examination upon oath (or in any solemn affirmation or declaration substituted as aforesaid for an oath,) whether such oath be required by this Act or by any other law relating to the Revenue, shall be deemed guilty of wilful and corrupt perjury, or of a misdemeanor punishable in the same manner as wilful and corrupt perjury, and shall on conviction be liable to be punished accordingly.

REMITTING

Digitized by Google

REMITTING DUTIES, FORFEITURES, &C.

49. And whereas it is expedient that the Executive Government should be empowered to relax the strictness of the laws relative to the collection of the Revenue in cases where, without such relaxation, great public inconvenience or great hardship and injustice to individuals could not be avoided:—Therefore, the Governor whenever he deems it right and conducive to the public good, may remit any duty or toll payable to Her Majesty, imposed or authorized to be imposed by any Act of the Parliament of Canada, or by any Act of the Legislatures of the late Provinces of Canada, Nova Scotia or New Brunswick, in force in the Dominion of Canada and relating to any matter within the scope of the powers of the Parliament thereof, or any forfeiture or pecuniary penalty imposed or authorized to be imposed by any such Act, for any contravention of the laws relating to the collection of the Revenue or to the management of any public work producing toll or revenue, although any part of such forfeiture or penalty be given by law to the informer or prosecutor, or to any other party;—And such remission may be made by any general regulation or by any special order in any particular case, and may be total or partial, unconditional or conditional,—and if conditional, and the condition be not performed, the order made in the case shall be null and void, and all proceedings may be had and taken as if it had not been made:

Recital.

Governor may remit duties, &c., in certain cases.

In what manner.

2. But a detailed statement of all such remissions as aforesaid, shall be annually submitted to the several branches of the Parliament of Canada within the first fifteen days of the next ensuing session thereof.

Statements to be laid before Parliament.

50. If the Governor directs that the whole or any part of any penalty imposed by any Law relating to the Revenue be remitted or returned to the offender, such remission or return shall have the effect of a pardon for the offence for which the penalty is incurred, which shall thereafter have no legal effect prejudicial to the party to whom such remission is granted:

Effect of remission of penalty.

2. Her Majesty's Attorney General for Canada, may sue for and recover in Her Majesty's name any penalty or forfeiture imposed by any Law relating to the Revenue, before any Court or other judicial authority before which such penalty or forfeiture is recoverable under such Law, or may direct the discontinuance of any suit for any such penalty, by whom or in whose name soever the same has been brought,—and in such case, the whole of such penalty or forfeiture shall belong to Her Majesty for the public uses of Canada, unless the Governor in Council do, as he may if he sees fit, allow any portion thereof to the seizing officer or other person by whose information or aid the penalty or forfeiture has been recovered.

Who may sue for penalties.

51. All commissions and appointments of any officers or persons employed in the collection or management of the Revenue

Appointments, &c., continued.

Digitized by Google

Revenue or in accounting for the same, issued or made before the passing of this Act, whether before or after the Union of the Provinces now forming the Dominion of Canada, shall continue in force, unless and until revoked or altered by competent authority, and the nature of the duties and local extent of the powers of each office, shall, unless and until they be expressly altered, and so far as they are not inconsistent with any Act of the Parliament of Canada, remain the same as if granted or made under the authority of this Act, subject always to the provisions and enactments thereof; and all bonds which have been given by such officers or persons, or their sureties, shall remain in full force and effect.

Repeal of inconsistent Acts, &c.

52. So much of chapter sixteen of the Consolidated Statutes of the late Province of Canada, or of chapter six of the Acts of the Legislature of the said Province, passed in the session held in the twenty-seventh and twenty-eighth years of Her Majesty's Reign;—or of chapters ten and eleven of the Revised Statutes of Nova Scotia, (third series)—or of chapter forty-one of the Revised Statutes of New Brunswick, or of any other Act or law in force in any Province of the Dominion of Canada, as is inconsistent with this Act or makes any provision in any matter provided for by this Act other than such as is hereby made, shall be and is repealed, in so far as relates to matters subject to the control of the Parliament of Canada.

CAP. VI.

An Act respecting the Customs.

[*Assented to 21st December*, 1867.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

PRELIMINARY—INTERPRETATION.

Interpretation clause.

1. In order to avoid the frequent use of numerous terms and expressions in this Act and in other laws relating to the Customs or to trade or to navigation, and to prevent misconstruction of the terms and expressions used therein—It is declared that—

Collector.

In this Act or in any such law as aforesaid;—the word "Collector" means the Collector of the Customs at the port or place intended in the sentence, or any person lawfully deputed, appointed or authorized to do the duty of Collector thereat;—the word "officer" means an officer of the Customs;—the word "Vessel" means any ship, vessel, or boat of any kind whatever, whether propelled by steam or otherwise, and whether used as a sea-going vessel or on inland waters only, unless the context be manifestly such as to distinguish one kind or class of vessel from another;—the word "Master" means the person having or taking charge of any ship or vessel;—the words "Owner," "Importer" or "Exporter" mean the owners, importers or exporters, if there be more than one in any case, and

Officer.
Vessel.
Master.
Owner, &c.

Digitized by Google

and include persons lawfully acting on their behalf;—the word "Goods" means goods, wares and merchandize, or moveable effects of any kind including carriages, horses, cattle and other animals, except where these latter are manifestly not intended to be included by the said word;—the word "Warehouse" means any place, whether house, shed, yard, dock, pond, or other place in which goods imported may be lodged, kept and secured without payment of duty;—and the words "Customs Warehouse" mean any such place appointed or approved for the said purpose by competent authority;—And generally, all the terms and provisions of this Act or of any such law as aforesaid, shall receive such fair and liberal construction and interpretation as will best ensure the protection of the Revenue and the attainment of the purpose for which such law was made, according to its true intent, meaning and spirit.

Goods.

Warehouse.

Customs Warehouse.

DUTIES AND EXEMPTIONS FROM DUTY.

2. The following provisions of this Act shall apply to all duties of Customs imposed by any Act of the Parliament of the Dominion of Canada, whether passed in the present session or in any future session of the said Parliament.

To what duties this Act applies.

3. On each and every non-enumerated article which bears a similitude either in material, quality or the use to which it may be applied, to any enumerated article chargeable with duty, the same rate of duty shall be payable which is charged on the enumerated article which it most resembles in any of the particulars before mentioned;—If any non-enumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable, the duty on such non-enumerated article shall be the same as that on the enumerated article which it resembles, paying the highest duty;—On all articles manufactured from two or more materials, the duty shall be that charged on the article (if there be a difference of duty) which is charged with the highest duty;—Spirits and strong waters, from whatever substance distilled or prepared, having the flavor of any kind of spirits or strong waters subject to a higher duty than whiskey, shall be liable to the duty imposed on the spirits or strong waters of which they have the flavor.

As to unenumerated articles bearing a similitude to enumerated ones, &c.

Articles made of more than one material.

Spirits flavored.

4. And inasmuch as doubts may arise as to whether any or what duty is payable on particular goods, more especially when such goods are of a new or unusual kind, or compounded of various kinds of materials, or imported in an unusual manner or under unusual circumstances: Therefore, for removing such doubts and avoiding litigation—If in any case any doubt arises as to whether any or what duty is under the laws then in force, payable on any kind of goods, and there is no decision in the matter by any competent tribunal, or there are decisions inconsistent with each other, the Governor in Council may declare the duty payable on the kind of goods in question or goods

Recital.

Governor in Council may declare the duty in doubtful cases, or that the goods are free from duty.

Digitized by Google

goods imported in the manner or under the circumstances in question, or that such goods are exempt from duty; and any Order in Council containing such declaration and fixing such duty (if any) and published in the *Canada Gazette*, shall, until otherwise ordered by the Legislature, have the same force and effect as if such duty had been fixed and declared by law; and a copy of the said Gazette containing a copy of any such order shall be evidence thereof.

Currency.

5. All duties, penalties or forfeitures imposed by any Act relating to the Customs, shall be payable in money being a legal tender, at such rate as that four dollars and eighty-six cents and two thirds of a cent of such money, shall be of equal value with the British sovereign or pound sterling; And all such duties shall be paid and received according to the Weights and Measures following, that is to say :—

Weights and measures.

The pound shall be the British pound avoirdupoise, containing sixteeen ounces;

The hundred weight shall be one hundred such pounds;

The ton shall be two thousand such pounds;

The gallon shall be the old English wine gallon containing two hundred and thirty-one cubic inches;

The bushel shall be the Winchester bushel containing two thousand one hundred and fifty cubic inches;

The standard measure of length shall be the English yard containing three feet;

Greater or less quantities.

And in all cases wherein the duties are imposed according to any specific quantity or to any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value.

Duties to be within the purview of Cap. 5, of this session.

6. The duties imposed by any such Act shall be held to be duties within the meaning of the Act of the present session of the Parliament of Canada, intituled: *Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts and the liability of Public Accountants*, and of any Act of the said Parliament amending the same, and shall, with all matters and things thereunto relating, be subject to the provisions of the said Act or Acts, and to the regulations and orders of the Governor in Council, made or to be made under the authority thereof, in so far as the same are not inconsistent with this Act;

To form part of Con. Rev. Fund.

And all moneys arising from such duties or from any penalties hereby imposed, and belonging to Her Majesty, shall be paid over by the officer receiving the same to the Receiver General, and shall form part of the Consolidated Revenue Fund of Canada.

ENTRY OF GOODS INWARDS—PLACE OF ENTRY.

Goods not to be unladen except after due entry.

7. No goods shall be unladen from any vessel arriving at any port or place in Canada, from any place out of Canada, nor from any vessel having dutiable goods on board brought coastwise, nor shall bulk be broken within three leagues of the coast, until due entry has been made of such goods, and warrant

Digitized by Google

warrant granted for the unlading of the same ;—and no goods shall be so unladen, (unless for the purpose of lightening the ship or vessel in crossing over a shoal, or bar, or sand-bank,) except between sunrise and sunset and on some day not being a Sunday or Statutory holiday, and at some hour and place at which an officer of the Customs is appointed to attend the unlading of goods, or at some place for which a sufferance has been granted by the Collector or other proper officer, for the unlading of such goods ; and if after the arrival of the vessel within three leagues of the coast any alteration be made in the stowage of the cargo so as to facilitate the unlawful unlading of any part thereof ; or if any part thereof be fraudulently staved, destroyed or thrown overboard, or any package be opened, it shall be deemed a breaking of bulk ;—And all goods unladen contrary to this Act, shall be forfeited, and if bulk be broken contrary to this Act, the master shall forfeit two hundred dollars.

Exception: And at the hours and places appointed for the purpose.

Stowage of cargo not to be altered, &c.

Forfeiture for contravention.

8. The Governor in Council may, by regulation, from time to time, appoint the ports and places of entry for the purposes of this Act, and may in like manner increase or diminish the number or alter the position or limits thereof.

Governor in Council to appoint places of entry, and alter the same.

9. No goods shall be imported into Canada, whether by sea, land, coastwise, or by inland navigation, and whether any duty is or is not payable on such goods, except into some port or place of entry at which a Custom House is then lawfully established ;

At what places only goods may be imported.

2. And if any goods are imported into Canada at any other place, or being brought into such port or place of entry by land or inland navigation, are carried past such Custom House, or removed from the place appointed for the examination of such goods by the Collector or other officer of the Customs at such port or place, before the same have been examined by the proper officer, and all duties thereon paid and a permit given accordingly, or if any vessel with dutiable goods on board, enters any place other than a Port of Entry, (unless from stress of weather or other unavoidable cause,) such goods (except those of an innocent owner) shall be forfeited, together with the vessel in which the same were imported,—if such vessel is of less value than eight hundred dollars,—and if the vessel is worth more than that sum, it may be seized, and the master or person in charge thereof shall incur a penalty of eight hundred dollars, and the vessel may be detained until such penalty be paid or security given for the payment thereof,—and unless payment be made or satisfactory security be given, within thirty days, such vessel may, at the expiration thereof, be sold to pay the said penalty ;

Forfeiture of goods carried past the Custom House on importation by land or removed, &c.

Vessel forfeited in certain cases.

Vessels may be detained.

3. And if any goods are so imported by land, they shall be forfeited, together with the carriage and all the harness and tackle

And carriages in cases of im-

Digitized by Google

portation by land.

tackle thereof, in or by which such goods are so imported or removed, and the horses or other cattle employed in drawing such carriage, or in importing or removing such goods.

ENTRY INWARDS—REPORT.

Report to be made by the master of a Vessel arriving from sea, or coastwise.

10. The master of every vessel arriving from sea or coastwise in any port in Canada, whether laden or in ballast, shall come directly, and before bulk is broken, to the Custom House for the port or place of entry where he arrives, and there make a report in writing to the Collector or other proper officer, of the arrival and voyage of such vessel, stating her name, country, and tonnage, and if British, the port of registry, the name and country of the master, the country of the owners,—the number and names of his passengers, if any,—the number of the crew, and how many are of the country of such vessel, and whether she is laden or in ballast, and if laden, the marks and numbers of every package and parcel of goods on board, and where the same was laden, and the particulars of any goods stowed loose, and where and to whom consigned, and where any and what goods, if any, have been laden or unladen, or bulk has been broken, during the voyage, what part of the cargo is intended to be landed at that port, and what at any other port in Canada, and what part (if any) is intended to be exported in the same vessel, and what surplus stores remain on board,—as far as any of such particulars can be known to him :

Contents of such report.

Surplus stores.

Production of bills of lading:—answering questions, &c.

2. And the Master shall at the same time, if required by the Officer of Customs, produce to him the bills of lading of the cargo, or true copies thereof, and shall, if so required, make and subscribe a declaration referring to his Report and declaring that all the statements made in the Report are true, and shall further answer all such questions concerning the vessel and cargo, and the crew, and the voyage, as shall be demanded of him by such officer and shall if required make the substance of any such answer part of this report; and if any goods are unladen from any vessel before such report be made, or if the master fails to make such report, or makes an untrue report, or does not truly answer the questions demanded of him, he shall forfeit the sum of four hundred dollars ;

Penalty for contravention.

Goods, not reported, to be forfeited.

3. And any goods not reported shall be forfeited, unless it appears that there was no fraudulent intention, in which case the Master shall be allowed to amend his report ;—but the necessary discharging of any goods for the purpose of lightening the vessel in order to pass any shoal, or otherwise for the safety of such vessel, shall not be deemed an unlawful landing or breaking of bulk, under this section ;

As to the necessary lightening of vessels.

Goods intended for another port.

4. If the contents of any package intended for importation into another port, or for exportation, be unknown to the master, the

Digitized by Google

the officer may open and examine it, and cause it for that purpose to be landed if he sees fit,—and if any prohibited goods be found therein, all the goods in such package shall be forfeited ;

5. Provided, that in order to avoid injurious delay to steamers and other vessels under certain circumstances, the Governor in Council may make such regulations as may be considered advisable, for the appointment of Sufferance Wharves and Warehouses, at which goods arriving by vessels in transit to other ports or confined to certain days of departure, may be landed and afterwards stored before entry, such vessels being duly reported to the Custom House, and having obtained the Collector's Warrant for the purpose,—provided such landing be effected between sun-rise and sun-set, on a day not being Sunday or a Statutory Holiday, and provided the goods on being so landed, are immediately stored in some such approved Sufferance Warehouse ;—and such goods shall be thereafter dealt with by the Customs as prescribed by law ; But nothing in this section shall affect any contract express or implied between the master or owner of any such vessel and the owner, shipper or consignee of any such goods as aforesaid, or the rights or liability of any party under such contract ;

Governor in Council may make regulations for the appointment of sufferance wharves and warehouses, for steamers, &c.

6. And fresh fish, coin or bullion may be landed without entry or warrant, as may also goods in any stranded or wrecked vessel, provided they be duly reported and entered as soon as possible after being safely deposited on shore, and that the landing be in presence of an Officer of the Customs, if one can be procured.

As to fish, coin or bullion.

7. If a vessel having live stock or perishable articles on deck arrives after business hours, the collector or any officer at the port may permit the master to unlade the same before report ; but report shall in such case be made as soon as may be after the next opening of the customs office.

Or live stock or perishable articles.

11. The Governor in Council may, by regulation, declare any trade or voyage on the seas, rivers, lakes or waters, within or adjacent to Canada, whether to or from any place within or without Canada, to be a coasting trade or a coasting voyage within the meaning of this Act, whether such seas, rivers, lakes or waters, are or are not, geographically or for the purposes of other Acts or laws, inland waters ;—And all carrying by water which is not a carrying by sea, or coastwise, shall be deemed to be a carrying by inland navigation ;—And the Governor in Council may from time to time, with regard to any such coasting trade, dispense with such of the requirements of the three next preceding sections as he deems it inexpedient to enforce in any case or class of cases, or make such further regulations as he may think expedient ; and any goods carried coastwise, or laden, water borne or unladen, contrary

Governor in Council may declare what shall be a coasting voyage.

What shall be deemed inland navigation.

Governor in Council may relieve coasters.

Digitized by Google

contrary to such regulations or to any provision of this Act not dispensed with by such regulations shall be forfeited.

Report to be made on importation by land or inland navigation.

12. The master or person in charge of any vessel or carriage arriving by land or inland navigation, in any port or place of entry in Canada, from any place beyond the limits of Canada and having any goods therein, (whether any duty be payable on such goods or not) or if the carriage or its tackle or the horses or cattle drawing the same or any of them is or are liable to duty, and any person whosoever so arriving and having with him or in his charge or custody any goods,—shall come directly, and before any such goods are unladen or put out of his custody, to the Custom House for such port or place of entry, and make a report in writing (in such form as may be appointed for that purpose by competent authority) to the Collector or other proper officer, of the arrival of such vessel, carriage, or goods, stating in such report the marks and numbers of every package and parcel of goods in such vessel or carriage, or in the charge and custody of such person, from what place the same are respectively brought, and to what place and to whom consigned or belonging, as far as such particulars are known to him, and he shall then and there produce such goods to the Collector or other proper officer, and shall declare that no goods have been unladen from such vessel or carriage or have been put out of his possession, between the time of his coming within the limits of Canada and of his making such report and declaration, and shall further answer all such questions concerning such vessel, carriage or goods, as are demanded of him by such Collector or officer :

Contents of such report.

Forfeiture of goods unladen, &c., without being so reported—penalty for untrue report.

2. And if any goods are unladen from such vessel or carriage, or put out of the custody of such master or person, before such report is made, or if such master or person fails to make such report or to produce such goods, or makes an untrue report, or does not truly answer the questions demanded of him, he shall for each or any such offence forfeit the sum of four hundred dollars, and if any such goods are not so reported and produced, or if the marks and numbers of any package do not agree with the report made, such goods or package shall be forfeited.

ENTRY—GENERAL FORM OF.

Within what time entries shall be made by sea, or from any place out of the Province.

By inland navigation, or by land, in decked vessels.

In undecked vessels.

13. Every importer of any goods by sea or from any place out of Canada shall, within three days after the arrival of the importing vessel, make due entry inwards of such goods, and land the same ;—And every importer of any goods imported by inland navigation in a decked vessel of one hundred tons burthen or more shall, within twenty-four hours of the arrival of the importing vessel, make due entry inwards of such goods, and land the same : — And every importer of any goods imported by inland navigation in any undecked vessel or in any vessel of less than one hundred tons burthen, or by land, shall,

Digitized by Google

shall, forthwith after the importation of such goods, produce the same to the proper officer and make due entry thereof:

2. The person entering any goods, whether inwards or outwards, shall deliver to the Collector or other proper officer, a Bill of the entry thereof, in such form as shall be appointed by competent authority, fairly written or printed, or partly written and partly printed, and in duplicate, containing the name of the importer or exporter, and if imported or exported by water, the name of the vessel and of the master, and of the place to or from which bound, and of the place within the port where the goods are to be unladen or laden, and the description of the goods, and the marks and numbers and contents of the packages, and the place from or to which the goods are imported or exported or carried, and stating whether such place is within or without the limits of Canada, and of what country or place such goods are the growth, produce or manufacture; and

Bills of entry inwards or outwards.

Duplicates.

Particulars required.

3. Unless the goods are to be warehoused in the manner by this Act provided, such person shall at the same time pay down all duties due upon all goods entered inwards; and the Collector or other proper officer shall, immediately thereupon, grant his warrant for the unlading or lading of such goods, and grant a permit for the conveyance of the same further into Canada, if so required by the importer;

Duties to be paid down, unless the goods are warehoused.

Warrant for unlading.

Permit, if required,

4. In default of such entry and landing, or production of the goods, or payment of duty, the Officer of Customs may convey the goods to the Customs Warehouse;—and if such goods be not duly entered for consumption or for warehousing within one month from the date of their being so conveyed to the customs warehouse and all charges of removal and warehouse rent, duly paid at the time of such entry, the goods shall be sold by public auction to the highest bidder, and the proceeds thereof shall be applied first to the payment of duties and charges, and the overplus, if any after discharging the vessel's lien, shall be paid to the owner of the goods or to his lawful agent; and any goods unladen or landed before due entry thereof and warrant for landing, shall be forfeited, and any person concerned in landing or receiving or concealing goods so landed shall for each offence forfeit four hundred dollars.

In default of entry, goods may be taken to the warehouse, and sold, if duties be not paid within a certain time.

5. But if any goods are brought in any decked vessel, from any place out of Canada to any port of entry therein, and not landed, but it is intended to convey such goods to some other port in Canada in the same vessel, there to be landed, then the duty shall not be paid nor the entry completed at the first port, but at the port where the goods are to be landed and to which they shall be conveyed accordingly, under such regulations and with such security or precautions for compliance with the requirements of this Act, as the Governor in Council may from time to time appoint.

Proviso: as to goods not intended to be landed at the first port the vessel makes.

Where the entry shall be completed.

14.

Digitized by Google

Collector may require further proof that goods are properly entered, &c.

14. The Collector may require from the importer (or from his agent) of any goods charged with duty, or conditionally exempted from duty, or exempt therefrom, before admitting the said goods to entry, such further proof as he deems necessary, by oath or declaration, production of invoice or invoices, or bills of lading or otherwise, that such goods are properly described and rated for duty or come properly within the meaning of such exemptions.

Packages of which the contents are unknown, may be opened.

15. Any package of which the importer or his agent declares the contents to be unknown to him, may be opened and examined by the Collector or other proper Officer in the presence of such importer or agent, and at the expense of the importer, who shall also bear the expense of re-packing.

No entry unless the goods correspond with the report.

16. No entry nor any warrant for the landing of any goods or for the taking of any goods out of any warehouse (as hereinafter provided,) shall be deemed valid, unless the particulars of the goods and packages in such entry or warrant correspond with the particulars of the goods and packages purporting to be the same in the report of the vessel, or other report, (where any is required,) by which the importation or entry thereof is authorized,—nor unless the goods have been properly described in such entry by the denominations, and with the characters and circumstances according to which such goods are charged with duty, or may be imported;—And any goods taken or delivered out of any vessel, or out of any warehouse, or conveyed into Canada beyond the port or place of entry, by virtue of any entry or warrant not corresponding with the facts in all such respects, or not properly describing the goods, shall be deemed to be goods landed or taken without due entry thereof, and shall be forfeited;—And the Collector or proper officer, after the entry of any goods, may, on suspicion of fraud, open and examine any package of such goods, in presence of two or more credible witnesses, and if upon examination the same are found to agree with the entries, they shall be repacked by such Collector or proper officer, at the public cost, but otherwise they shall be forfeited.

Goods, not corresponding with the entry to be forfeited.

Suspected packages may be opened.

Quantity and value to be given in entry.

17. The quantity and value of any goods shall always be stated in the Bill of Entry thereof, although such goods are not subject to duty, and the Invoice thereof shall be produced to the Collector.

Surplus stores of sea-going vessels to be liable to duty.

18. The surplus stores of vessels arriving in Canada from parts beyond the seas, shall be subject to the same duties and regulations as if imported as merchandize; but if it shall appear to the collector that such stores are not excessive or unsuitable, under the circumstances of the voyage, he may permit them to be entered for the private use of the master or owner, or of any passenger to whom the same may belong, on payment of the proper duties, or to be warehoused for re-shipment for the future use of the vessel

19.

Digitized by Google

19. Vessels entering the Gut of Annapolis may be reported and entered, and the duties on goods therein imported paid, either at the port of Digby or Annapolis.

Vessels entering Annapolis.

20. Vessels entering the Great Bras d'Or shall be reported and entered at such place as the Minister of Customs may from time to time direct.

Or the Great Bras d'Or.

ENTRY INWARDS—GOODS DAMAGED, &C.,—FREE GOODS—TARE.

21. If any goods imported by water on which *ad valorem* duties are payable, receive any damage by water or otherwise during the course of the voyage, after such goods have been laden or shipped, and before the same are unshipped or discharged from the vessel in which they are imported into Canada, or from any vessel or craft into which the said goods have been transhipped for the purpose of being conveyed to the port of destination, so that the owner thereof is prejudiced in the sale of such goods,—then if the claim for abatement be made in due form at the first examination of the goods after landing and while they are in the custody of the Crown, the Collector or proper officer of the Customs at the place where the same are landed, being satisfied of the necessary facts, may offer to make such abatement of the duties otherwise payable on such goods as he may think reasonable and just,—but if the owner or consignee of the goods be not satisfied with the abatement so offered, then the Collector may choose three disinterested merchants, experienced in the value of such goods, who, or any two of them, upon viewing the same, shall certify what damage such goods have received, or how much the same are lessened in their true value by such damage, in relation to the duties imposed on them, and thereupon such officer shall make or repay a proportionate allowance to the importer, by way of abatement of the duties due or payable, or which have been actually paid upon the same; And the said merchants shall be allowed in remuneration for such valuation, at the discretion of such officer, a sum of not less than two dollars nor more than ten dollars for each merchant, and such remuneration shall be paid by the owner or owners of such goods.

Abatement of *ad valorem* duties on goods imported by water and damaged.

How ascertained.

Remuneration to the merchants ascertaining such abatement.

22. When any vessel is entered at the Custom House at any port in Canada, on board of which there are any goods, on which any duty has been levied or collected, or on which any duty has been deposited, and thereafter the said goods are lost or destroyed before the same are landed from such vessel, or from any vessel or craft employed to lighten such vessel, —then, on proof being made on the oath of one or more credible witness or witnesses, before and to the satisfaction of the Collector or proper officer of the Customs at the place, (who shall administer the oath,) that such goods, or any part thereof (specifying the same) have been so lost or destroyed, before the

Return of duties on goods lost before landing: —on what conditions to be obtained.

Digitized by Google

the landing of the same,—the duties on the whole, or the part thereof so proved to be lost or destroyed, shall, if the same have been paid or deposited, be returned to the owner or his agent.

Vessels unladen for the purpose of repairing damages.

23. If any vessel having received damage puts into a port in Canada to which she is not bound, having dutiable goods on board, which it may be necessary to land for the purpose of repairing the vessel in order to enable her to proceed on her voyage, the collector, upon application of the master or agent, may permit such goods to be unladen and deposited in a warehouse in the custody of the collector; and the collector shall cause to be taken an exact account of the packages and contents, and entry of the goods shall then be made by the master or agent as hereinbefore directed, and they shall remain in the custody of the collector until the vessel is ready for sea, when, upon payment of storage and the reasonable charges of unlading and storing, the collector shall deliver up the same to the master or agent to be exported or carried coastwise as the case may be, under the same security and regulations as if such goods had been imported in the usual manner, and without payment of duty; no person shall be entitled to the benefit of this section who shall have sold any of such goods, except such as it may have been necessary to sell to defray the expense of repairs and charges of the vessel, or as may have been authorized by the Collector of Customs, and if goods are sold for payment of repairs and charges they shall be subject to duty, and shall be warehoused, or the duties thereon paid by the purchaser.

Goods sold for salvage.

24. The owner or salvor of dutiable goods saved from the sea, in respect of which any salvage shall have been lawfully awarded or paid, or agreed to be paid, to the salvors, may sell so much thereof as will pay the salvage, and upon production of the award, or satisfactory proof to the Collector of such payment or agreement therefor, the Collector shall allow the sale of the goods, free of duty, to the amount of the salvage, or to such other amount as to him appears proper.

Goods wrecked or derelict, &c.

25. Goods derelict, flotsam, jetsam, or wreck, or landed or saved from any vessel wrecked, stranded, or lost, brought or coming into Canada, shall be subject to the same duties as goods of the like kind imported are subject to; and if of such sort as are entitled to allowance for damage, such allowance shall be made under the direction of the Minister of Customs; if any person has in his possession in port or on land any such goods, the same being dutiable, and does not give notice thereof to the nearest officer of customs without unnecessary delay, or does not on demand pay the duties thereon or deliver the same to the proper officer, he shall forfeit two hundred dollars and the goods be forfeited; and if any person removes or alters in quantity or quality, any such goods, or unnecessarily opens or alters any package thereof, or abets any

Digitized by Google

any such act before the goods are deposited in a warehouse under the custody of the customs' officers, he shall forfeit two hundred dollars; and if the duties on such goods are not paid within eighteen months from the time when the same were so deposited, the same may be sold in like manner and for the same purposes as goods imported may in such default be sold; If they are sold for more than enough to pay the duty the surplus shall be paid over to the person entitled to receive it; but any person having lawful claim to such goods, or being in possession thereof, shall be at liberty to retain the same in his own custody, on giving bond with two sureties approved by the collector, in double the value of the goods, for the payment of the duties thereon at the expiration of a year, or to deliver such goods to the proper officer in the same condition as they were at the time of taking possession; nothing in this section contained shall extend to goods in the custody or under the management of any commissioner for the Isle of Sable.

Sale for duty.

26. All goods exempt from duty as being imported or taken out of warehouse for the use of Her Majesty's Troops, or for any purpose for which such goods may be imported free of duty, shall, in case of the sale thereof after importation, become liable to and be charged with the duties payable on like goods on their importation for other purposes; And if such duties be not paid, such goods shall be forfeited and may be seized and dealt with accordingly.

Crown goods and others, exempted from duty, to be liable to duty if sold;

Forfeiture if duty be not paid.

27. In all cases where duties are charged according to the weight, tale, gauge or measure, such allowances shall be made for tare and draft upon the packages as may be appointed by regulation made by the Governor in Council:

Allowance for tare, &c., to be fixed by Governor in Council.

2. But when the original invoice of any goods is produced, and a declaration of the correctness thereof made as hereinafter provided, the tare according to such invoice shall be deducted from the gross weight of the goods instead of the allowances aforesaid; subject, however, to such further regulation as the Governor in Council may from time to time make.

Where real tare is known.

28. The collector or any appraiser under this Act, may take samples of any goods imported, for the purpose of ascertaining whether any and what duties are payable on such goods, and such samples shall be disposed of as the Minister of Customs may direct.

Collector, &c., may take samples.

ENTRY INWARDS—VALUATION FOR DUTY.

29. And inasmuch as it is expedient to make such provisions for the valuation of goods subject to *ad valorem* duties as may protect the revenue and the fair trader against fraud by the undervaluation of any such goods—Therefore, the Governor may

Recital.

Digitized by Google

Appraisers to be appointed.

may from time to time, and when he deems it expedient, appoint fit and proper persons to be Appraisers of goods, and to act as such respectively, at such Ports of entry and places as may be designated for that purpose;—And each such Appraiser shall, before acting as such, take and subscribe the following oath of office before some Justice of the Peace having jurisdiction where the oath is taken, and shall deliver the same to the Collector at the Port or place, or at one of the Ports or places where he is appointed to act:

They shall take an oath of office.

The oath.

"I, A. B., having been appointed an Appraiser of goods, "wares and merchandise, and to act as such at the Port of " (*or, as the case may be*), do solemnly swear "(*or* affirm) that I will faithfully perform the duties of the said "office, without partiality, fear, favor or affection, and that I "will appraise the value of all goods, submitted to my ap-"praisement, according to the true intent and meaning of the "laws imposing duties of Customs in this Dominion; and that "I will use my best endeavours to prevent all fraud, subter-"fuge or evasion of the said laws, and more especially to "detect, expose and frustrate all attempts to undervalue any "goods, wares or merchandize on which any duty is charge-"able. So help me God."

A. B.
Appraiser for
(*as the case may be*).

"Sworn before me, this day of , 18 ."

E. F.
J. P. for (*as the case may be*).

Appraisers may be sent to any port to appraise goods.

If no Appraiser is appointed at any Port of entry, the Collector there shall act as Appraiser, but without taking any special oath of office as such; And the Minister of Customs may at any time direct any Appraiser to attend at any port or place for the purpose of valuing any goods, or of acting as Appraiser there during any time, which such Appraiser shall accordingly do without taking any new oath of office; and every Appraiser shall be deemed an Officer of the Customs.

Mode of calculating value for *ad valorem* duties.

Duty of officers

30. In all cases where any duty is imposed on any goods imported into Canada *ad valorem*, or according to the value of such goods, such value shall be understood to be the fair market value thereof in the principal markets of the country whence the same were exported directly to Canada; And every Appraiser and every Collector when acting as such, shall, by all reasonable ways and means in his power, ascertain the fair market value as aforesaid of any goods to be appraised by him, and estimate and appraise the value for duty of such goods, at the fair market value as aforesaid:

2.

Digitized by Google

2. Nevertheless, by any order of the Governor in Council, it may be provided that in the cases and on the conditions to be mentioned in such order, and while the same is in force, goods *bonâ fide* exported to Canada from any Country, but passing *in transitu* through another Country, shall be valued for duty as if they were imported directly from such first mentioned Country.

Provision as to goods merely passing through a Country.

31. The fair market value for duty, of goods imported into Canada, shall be, the fair market value of such goods in the usual and ordinary commercial acceptation of the term at the usual and ordinary credit, and not the cash value of such goods, except in cases in which the article imported is by universal usage considered and known to be a cash article, and so *bonâ fide* paid for in all transactions in relation to such article; and no discounts for cash shall in any case be allowed in deduction of the fair market value as hereinabove defined; and all invoices representing cash values, except in the special cases hereinabove referred to, shall be subject to such additions as to the Collector or Appraiser of the Port at which they are presented, may appear just and reasonable to bring up the amount to the true and fair market value as required by this section.

What shall be deemed the fair market value for duty *ad valorem*.

Proviso as to cash articles and discount for cash.

32. The Standards by which the colour and grades of sugars are to be regulated, and the class to which sugars shall be held to belong, with reference to duty chargeable thereon, shall be selected and furnished from time to time to the collectors of such Ports of entry as may be necessary, by the Minister of Customs, in such manner as he may deem expedient; and the decision of the appraiser, or of the Collector of a Port where there is no appraiser, as to the class to which any imported sugar belongs and the duties to which it is subject, shall be final and conclusive, and the duties shall be paid accordingly; and all cane juice, syrup of sugar or of sugar cane, melado, or concentrated melado or concentrated molasses, entered as molasses or under any other name than cane juice, syrup of sugar or of sugar cane, melado, concentrated melado, or concentrated molasses, shall be forfeited.

Standards for qualities of sugar.

Forfeiture for entering certain syrups, &c., under wrong names.

33. If the importer of any goods whereon a duty *ad valorem* is imposed, or the person authorized to make the declaration required with regard to such goods, makes and subscribes a declaration before the Collector or other proper officer, that he cannot, for want of full information, make perfect entry thereof, and takes the oath or affirmation in such cases provided in the Schedule to this Act,—then the Collector or officer may cause such goods to be landed on a Bill of Sight for the packages and parcels thereof, by the best description that can be given, and to be seen and examined by such person and at his expense, in the presence of the Collector or principal officer, or of such other officer of the Customs as shall be appointed

Entry inwards by Bill of Sight —how and in what cases made.

Digitized by Google

Deposit of money for duty.

appointed by the said Collector or other proper officer, and to be delivered to such person on his depositing in the hands of the Collector or officer, a sum of money fully sufficient in the judgment of the Collector or officer to pay the duties thereon;—

Provision if perfect entry be not made as stipulated.

And if the importer does not complete a perfect entry within the time appointed by the Collector, the money so deposited shall be taken and held to be the duty accruing on such goods, and shall be dealt with and accounted for accordingly;

If the Importer swears that no invoice has been or can be received.

2. Such Sight Entry may be made as aforesaid and the goods may be delivered, if such importer or person as aforesaid makes oath or affirms that such invoice has not been, and cannot be produced, and pays to the Collector or proper officer aforesaid a sum of money sufficient in the judgment of such Collector or officer to pay the duties on such goods, and such sum shall then be held to be the amount of the said duties;

In other cases entry not perfect without invoice.

3. But, except only in cases where it is otherwise provided herein or by regulation of the Governor in Council, no entry shall be deemed perfect unless a sufficient invoice of the goods to be entered, attested as hereinafter required, has been produced to the Collector.

Invoice to be attested on oath by the owner of the goods.

34. With the Bill of Entry of any goods, there shall be produced and delivered to and left with the Collector, an Invoice of the goods, attested by the oath of the owner, and if the owner be not the person entering such goods, then verified also by the oath of the importer or consignee, or (subject to the provision hereinafter made) other person who may lawfully make such Entry and verify such Invoice, in the form or to the effect of the oath or oaths provided for the case in the Schedule hereunto annexed, which oath or oaths shall be written or printed, or partly written and partly printed on such Invoice, or on the Bill of Entry, (as the case may be), or shall be annexed thereto, and shall in either case distinctly refer to such Invoice so that there can be no doubt as to its being the Invoice to which such oath is intended to apply, and shall be subscribed by the party making it and certified by the signature of the person before whom it is made;—And the Bill of Entry shall also contain a statement of the quantity and value for duty of the goods therein mentioned, and shall be signed by the person making the entry, and shall be verified in the form or to the effect of the oath provided for the case in the said Schedule.

Form of oath.

Bill of Entry to mention the value for duty and to be attested.

As to any case where there may be more than one owner of goods.

35. If there be more than one owner, importer or consignee of any goods, any one of them cognizant of the facts may take the oath required by this Act, and such oath shall be sufficient, unless the goods have not been obtained by purchase in the ordinary way, and some owner resident out of Canada is the manufacturer or producer of the goods, or concerned in the manufacture or production thereof, in which case the oath of such non-resident owner (or of one of them, if there be more

Digitized by Google

more than one) cognizant of the facts, shall be requisite to the due attestation of the invoice.

36. The Invoice of any goods produced and delivered to the Collector with the Bill of Entry thereof, under the next preceding section but one, must if required by the Collector, be attested by the oath of the owner or one of the owners of such goods, and must be verified also by the oath of the Importer or Consignee or other person who may under this Act lawfully make entry of such goods and verify such Invoice, if the owner or one of the owners is not the person entering such goods,—and must also if required by the Collector be attested by the oath of the non-resident owner being the manufacturer or producer of such goods, in the case mentioned in the next preceding section, although one of the owners be he person entering the goods and verifying the Invoice on oath.

Invoice to be attested by one of the owners of such goods—and also by the importer or consignee.

And also by the oath of the non-resident owner, &c.

37. If the owner, importer or consignee of any goods be dead, or a bankrupt or insolvent, or if for any cause his personal estate be administered by another person, then his executor, curator, administrator or assignee, or person administering as aforesaid, may, if cognizant of the facts, take any oath and make any entry which such owner, importer or consignee might otherwise have taken or made.

Provision for the death, &c of the owner, importer or consignee.

38. In any such Bill of Entry as aforesaid, the person making the same, may add such sum to the value stated in the Invoice, as will be sufficient to make the value for duty such as it ought to be, and such value shall then, for the purposes of this Act, stand instead of the value as it would appear by the Invoice ;—And no evidence of the value of any goods imported into Canada, or taken out of warehouse for consumption therein, at the place whence and the time when they are to be deemed to have been exported to Canada, contradictory to or at variance with the value stated in the Invoice produced to the Collector, with the additions (if any) made to such value by the Bill of Entry, shall be received in any Court in Canada, on the part of any party except the Crown.

Party entering may add to the value by the invoice so as to give the true value for the duty.

Importer bound by entry as to value of goods, &c.

Except against the Crown.

39. The oath required under the foregoing sections may be made in Canada before the Collector at the Port where the goods are entered, or if the person making such oath is not resident there, then before the Collector of some other Port ;—And when such oath is required to be made out of the limits of Canada, it may be made at any place within the United Kingdom or at any place in Her Majesty's possessions abroad, before the Collector or before the Mayor or other Chief Municipal Officer of the place where the goods are shipped, and at any other place before the British Consul at such place, or if there is no such Consul, then before some one of the principal merchants at such place, not interested in the goods in question ;

Before whom the attestation of invoice or bills of entry may be made.

2.

Digitized by Google

Governor in Council may appoint other persons before whom attestation may be made.

2. And the Governor in Council may, from time to time, by Regulation, appoint or designate such other and additional persons, officers or functionaries as he sees fit, by name or by their name of office, and in Canada or out of it, as those before whom such oath may be validly taken, and may by any Order in Council relax or dispense with the provisions of this Act touching such oath, in or with regard to goods imported by land or inland navigation, or to any other class of cases to be designated in such Regulation ;

No person but the owner, &c., to take oath, except in certain cases.

3. No person other than the owner, consignee or importer of the goods of which entry is to be made, shall be allowed to take any oath under the said foregoing sections, unless there be attached to the Bill of Entry therein referred to, a declaration by the owner, consignee or importer of the said goods, (or his legal representative under section one hundred and thirty-six of this Act,) to the same effect as the oath or affirmation, (adapting the form and words to the case,) distinctly referring to the Invoice presented with such Bill of Entry, and signed by such owner, importer or consignee, (or his legal representative,) either in presence of the agent making the entry, who shall attest the signature, or of some Justice of the Peace or Notary Public, who shall attest the same ; And such declaration shall be kept by the Collector ; And for any wilfully false statement in such declaration, the person making the same shall incur the same penalty as if it were made in the oath or affirmation ;—But such written declaration may be dispensed with under the order of the Governor in Council, where it may be deemed advisable in the interests of Commerce, to dispense therewith ;

Proviso.

Governor in Council may alter oaths in Schedule.

4. The Governor in Council may, by Regulation, authorize the alteration of any of the forms of oaths or affirmations in the said Schedule, by abbreviating the same or omitting any of the allegations therein contained which may appear to him unnecessary ;—And any amended form prescribed by any such Regulation, shall be of the same effect as the form in the said Schedule for which it is substituted, and shall thereafter be held to be the form referred to in this Act ; And any such Regulation may from time to time be repealed or amended as other Regulations in matters relating to the Customs.

No person making or authorizing a false invoice of any goods, shall recover any part of the price thereof.

40. If any person makes, or sends, or brings into Canada, or causes or authorizes the making, sending, or bringing into Canada, of any Invoice or paper, used or intended to be used as an Invoice for Customs purposes, wherein any goods are entered or charged at a less price or value than that actually charged or intended to be charged for them, no price or sum of money shall be recoverable by such person, his assigns or representatives, for the price or on account of the purchase of such goods or any part of them, or on any bill of exchange, note or other security, unless in the hands of an innocent holder for value without notice, made, given or executed for

Digitized by Google

for the price of or on account of the purchase of such goods or any part of such price; and the production or proof of the existence of any other Invoice, account, document, or paper made or sent by the same person, or by his authority, wherein the same goods or any of them are charged or entered at or mentioned as bearing a greater price than that set upon them in any such Invoice as first above mentioned, shall be *primâ facie* evidence that such first mentioned Invoice was intended to be fraudulently used for Customs' purposes, but such intention, or the actual fraudulent use of such Invoice, may be proved by any other legal evidence.

Evidence of Fraud.

41. The Collectors of Customs, at all the ports in Canada, shall retain and put on file, after duly stamping the same, all Invoices of goods imported at such ports respectively, of which Invoices they shall give certified copies or extracts, whenever called upon so to do by the importers, and such copies or extracts so duly certified by the Collector or other proper officer and bearing the Stamp of the Custom House at which they are filed, shall be considered and received as authentic; and the Collector shall be entitled to demand for each certificate a fee of fifty cents, before delivering the same.

Collector to retain and file invoices.

Certified copies to be evidence.

Fee.

42. Any Appraiser, or any Collector acting as such, (or the merchants to be selected as hereinafter mentioned, to examine and appraise any goods, if the importer, owner, consignee or agent is dissatisfied with the first appraisement) may call before him or them and examine upon oath any owner, importer, consignee or other person, touching any matter or thing which such Appraiser or Collector deems material in ascertaining the true value of any goods imported, and may require the production on oath of any letters, accounts, invoices or other papers in his possession relating to the same:

Power of appraiser or collector to examine the parties on oath, &c.

2. And if any person so called neglects or refuses to attend, or declines to answer, or refuses to answer in writing (if required) to any interrogatories, or to subscribe his name to his deposition or answer, or to produce any such papers as aforesaid when required so to do, he shall thereby incur a penalty of fifty dollars, and if such person is the owner, importer or consignee of the goods in question, the appraisement which the Appraiser or Collector acting as such shall make thereof, shall be final and conclusive;

Penalty for refusing to attend &c., $50.

3. And if any person wilfully swears falsely in any such examination, and he is the owner, importer or consignee of the goods in question, they shall be forfeited; and all depositions or testimony in writing taken under this section, shall be filed in the office of the Collector at the place where the same are made or taken, there to remain for future use or reference.

Penalty for wilfully false evidence.

Depositions to be filed in the office of the Collector.

Digitized by Google

Importer dissatisfied with appraisement, may appeal in certain cases.

Two merchants to be appointed to appraise the goods.

Their appraisement to be final.

43. If the importer, owner, consignee or agent, having complied with the requirements of this Act, is dissatisfied with the appraisement made as aforesaid of any such goods,—he may forthwith give notice in writing to the Collector of such dissatisfaction, on the receipt of which notice the Collector shall select two discreet and experienced merchants, familiar with the character and value of the goods in question, to examine and appraise the same, agreeably to the foregoing provisions, and if they disagree, the Collector shall decide between them; and the appraisement thus made shall be final and conclusive, and the duty shall be levied accordingly :

Remuneration of such merchants, and by whom paid.

2. The said merchants shall each be entitled to the sum of five dollars, to be paid by the party dissatisfied with the former appraisement if the value ascertained by the second appraisement is equal to or greater than that ascertained by such former appraisement, or if the value ascertained by such second appraisement exceeds by ten per cent or more the value of the goods for duty, as it would appear by the Invoice and Bill of entry thereof,—otherwise the same shall be paid by the Collector out of any public moneys in his hands and charged in his accounts ;

Penalty for refusing to act.

3. Any merchant chosen to make an appraisement required under this Act, who after due notice of such choice has been given to him in writing, declines or neglects to make such appraisement, shall, for so refusing or neglecting, incur a penalty of forty dollars and costs.

Additional duty in cases of under-valuation.

44. If in any case the actual value for duty of any goods as finally determined by the appraiser or collector acting as such, or under the next preceding section, in the case therein mentioned, exceeds by twenty per centum or more the value for duty as it would appear by the Invoice and Bill of Entry thereof, then in addition to the duty otherwise payable on such goods, when properly valued, there shall be levied and collected upon the same a further duty equal to one half the duty so otherwise payable ;—And the value of any goods for duty shall never be appraised at less than the value for duty as it would appear by the Invoice and Bill of Entry.

Appraised value never to be less than Invoice value.

Duties fixed by Collector to be final unless appealed from within a certain time to Minister of Finance.

45. On the entry of any goods, the decision of the Collector of Customs at the port of entry, as to the rate and amount of duties to be paid on such goods, shall be final and conclusive against all persons interested therein, unless the owner, importer, consignee or agent of the goods, do within ten days after the ascertainment and liquidation of the duties by the proper officers of customs, and whether the goods are entered in bond or for consumption, give notice in writing to the collector on each entry, if dissatisfied with his decision, setting forth therein distinctly and specifically the grounds of his objection thereto, and do within thirty days after the date of such ascertainment

Digitized by Google

ascertainment and liquidation appeal therefrom to the Minister of Customs, whose decision on such appeal, or in his absence the decision of any other member of the Executive Council who may be appointed by the Governor in Council for that purpose, shall be final and conclusive, and such goods shall be liable to duty accordingly, unless suit be brought within sixty days after the decision on such appeal, for any duties which shall have been paid before the date of such decision, on such goods, or within sixty days after the payment of duties paid after such decision; And no suit shall be maintained in any court for the recovery of any duties alleged to have been erroneously or illegally exacted, until such decision as last mentioned shall have been first had on such appeal; Provided that such decision shall be given within thirty days after such appeal has been lodged with the Minister of Customs.

No suits for recovery until after decision on appeal.

Proviso.

46. The value of goods chargeable with *ad valorem* duties, brought into Canada under the denomination of prize goods, or which shall be sold by order of the court of vice admiralty, or which shall become forfeited and be sold as such, shall, if the value thereof cannot be ascertained by the means hereinbefore prescribed, be determined by the gross price which the same shall bring at public auction: and the purchasers shall be considered the importers and pay the duties thereon.

Value of prize goods how ascertained for duty.

ENTRY INWARDS—POWERS OF COLLECTOR FOR ENSURING FAIR VALUATION.

47. The Collector may always, when the value of the goods is in dispute, and when he deems it advisable in order to protect the revenue and the fair trader from fraud by under-valuation, and when the same is practicable, and subject always to such Regulations as may be made by the Governor in Council,—take the amount of the duty chargeable on any article on which an *ad valorem* duty is payable (after deducting one eleventh of the duty) in the article itself, taking any specific duty at the rate at which the article is valued for duty by the owner, importer, agent or consignee, that is to say:—if the duty after such deduction is ten per cent *ad valorem*, he may take one tenth of such goods, and if there be any specific duty thereon, he may also take such quantity of the said goods as at the value last aforesaid will be equivalent to the amount of such specific duty after deducting one eleventh as aforesaid;—And out of any number of packages or quantities in the same Invoice or Bill of Entry, the Collector may take his choice at the rates therein assigned to such articles respectively;—And such goods so taken shall be sold or dealt with in such manner as may be provided by regulation of the Governor in Council.

Collector may take the duty in kind.

Mode of taking the same, &c.

May take his choice of packages.

Goods taken, how dealt with.

48. The Collector may always, when he deems it expedient for the protection of the Revenue, and the fair trader, and subject always to any regulations to be made by the Governor in Council

Collector may take goods on paying the value assigned

Digitized by Google

in the bill of entry, adding ten per cent and charges.

Council in that behalf,—detain and cause to be properly secured, and may at any time within fifteen days declare his option to take, and may take for the Crown, any whole package or packages, or separate and distinct parcel or parcels, or the whole of the goods mentioned in any Bill of Entry, and may pay, when thereunto requested, to the owner or person entering the same, and out of any public moneys in the hands of such Collector, the sum at which such goods, packages or parcels, are respectively valued for duty in the Bill of Entry, and ten per cent. thereon, and also the fair freight and charges thereon to the Port of Entry, and may take a receipt for such sum and addition when paid;—And the goods so taken, shall (whether such payment be requested or not) belong to the Crown from the time they are so taken as aforesaid, and shall be sold or otherwise dealt with in such manner as shall be provided by any regulation in that behalf, or as the Minister of Customs shall direct, and the net proceeds of the sale of any such goods, shall be dealt with as moneys arising from duties of Customs:

How such goods may be dealt with.

Bonus to collector, appraiser, &c., for diligence.

2. And if the net proceeds of any such sale, exceed the amount paid as aforesaid for the goods, then any part of the surplus, not exceeding fifty per centum of such surplus, may under any Regulation or Order of the Governor in Council, be paid to the Collector, Appraiser or the other officer concerned in the taking thereof, as a reward for his diligence.

Collector to cause a certain number of packages in every entry to be opened, &c.

49. The Collector shall cause at least one package in every Invoice, and at least one package in ten if there be more than ten in any Invoice, and so many more as he or any Appraiser deems it expedient to examine for the protection of the revenue, to be sent to the warehouse and there to be opened, examined and appraised, the packages to be so opened being designated by the Collector; And if any package is found to contain any goods not mentioned in the Invoice, such goods shall be absolutely forfeited, and if any goods are found which do not correspond with the description thereof in the invoice, and such omission or non-correspondence appears to have been made for the purpose of avoiding the payment of the duty or of any part of the duty on such goods,—or if in any Invoice or entry any goods have been undervalued with such intent as aforesaid,—or if the oath or affirmation made with regard to any such Invoice or Entry is wilfully false in any particular, then in any of the cases aforesaid all the packages and goods included or pretended to be included, or which ought to have been included in such Invoice or Entry, shall be forfeited.

Forfeiture of goods not mentioned in invoice, or fraudulently under-valued, &c.

Or for false statement in any oath, &c.

Provision as to packages delivered to importer before examination.

50. All the packages mentioned in any one Entry, although most of such packages may have been delivered to the importer, shall be subject to the control of the Customs authorities of the port at which they are entered, until such of the

Digitized by Google

the packages as have been sent for examination to the Examining Warehouse, shall have been duly examined and approved, provided such examination takes place within three days after the delivery of the package or packages into the Examining Warehouse, and after twenty-four hours notice by the importer to the collector; and a bond shall be given by the importer conditioned that the packages so delivered shall not be opened or unpacked before the package or packages sent to the Examining Warehouse shall have been examined and passed as aforesaid, provided they are examined within the delay aforesaid; and the packages so delivered, or the goods if lawfully unpacked, shall, if required by the Collector of Customs, be returned to the Custom House within such delay as may be mentioned in the bond, under a forfeiture of the penalty of such bond; provided that the Collector shall use due diligence in causing such examination to be made, and may, if he sees no objection, permit the remaining packages to be opened and unpacked, as soon as those sent to the warehouse have been examined and approved:

Bond to be given.

Proviso: for avoiding delay.

2. The Bond above mentioned may be a general bond covering the entries to be made by the Importer for a period of twelve months from its date, and the penal sum shall be equal to the value of the largest importation made by the Importer in question at any one time during the twelve months next immediately preceding; or if such Importer has made no importations by which, in the opinion of the Collector, such penal sum can be properly fixed, the Collector shall fix the amount thereof, at such sum as he deems equitable.

Nature and amount of Bond.

ENTRY INWARDS—GENERAL PROVISIONS.

51. The burden of proof that all the requirements of this Act with regard to the Entry of any goods, have been complied with and fulfilled, shall in all cases lie upon the parties whose duty it was to comply with and fulfil the same.

Onus of proof on due entry, on whom to lie.

52. And whereas it is expedient that certain goods when imported into Canada should be marked or branded with such mark or brand as may be deemed necessary, in order to denote the payment of the duty to which such goods are liable: Therefore the Governor in Council may by regulation, direct that after any goods have been entered at the Custom House, and before the same are discharged by the officers and delivered into the custody of the importer or his agent, such goods shall be marked or stamped in such manner or form as may be directed by such regulation for the security of the Revenue, and by such officer as may be directed or appointed for that purpose.

Duty paid goods may be branded or marked under regulations to be made by the Governor in Council.

53. When any person has occasion to remove from any port of entry to any other port or place, any goods duly entered, and on which the duties imposed by law have been paid,—the Collector

Permit certifying that duties have been paid on any goods to

Digitized by Google

be granted at the request of the owner.

Collector or principal officer of the Customs at such port, on the requisition in writing of such person, within thirty days after the entry of such goods, specifying the particular goods to be removed, and the packages in which such goods are contained with their marks and numbers,—shall give a permit or certificate in writing, signed by him, bearing date of the day it is made, and containing the like particulars and certifying that such goods have been duly entered at such port and the duties paid thereon, and stating the port or place at which the same were paid and the port or place to which it is intended to convey them, and the mode of conveyance, and the period within which they are intended to be so conveyed.

Particulars in such permit.

WAREHOUSING GOODS.

What shall be Warehousing Ports.

54. The following Ports shall be Warehousing Ports for the purposes of this Act, viz:—Belleville, Brockville, Cobourg, Colborne, Dalhousie, Fredericton, Goderich, Halifax, Hamilton, Hope, Kingston, London, Maitland, (on the Grand River,) Montreal, Niagara, Prescott, Quebec, Stanley, St. John New Brunswick, St. John, Quebec, Toronto, as shall also such other Ports of Entry as the Governor in Council may from time to time appoint to be Warehousing Ports.

Governor may appoint others.

Goods may be entered for exportation or warehoused without payment of duties subject to regulations of Governor in Council.

55. The importer of any goods into Canada may enter the same for exportation, on giving security by his own bond with one sufficient surety, for the exportation of the same goods,—or may warehouse the same on giving such security by his own bond for the payment of the amount of all duties on such goods, and the performance of all the requirements of this Act with regard to the same, the penalty of such bond being double the amount of the duty to which such goods are subject (without payment of any duties in either case on the first entry thereof,)—at such ports or places as aforesaid, and in such warehouses, and subject to such rules and regulations, as may be from time to time appointed by the Governor in Council in that behalf, not being repugnant to this Act:

Importer may sort or repack goods in warehouse for their preservation or disposal, and may take samples;

2. During the regular warehouse hours, and subject to such regulations as the Collector or proper officer of Customs at the warehousing ports sees fit to adopt, (as well for the carrying and taking of such goods to the warehouse as for other purposes,) such importer may sort, pack, repack or make such lawful arrangements respecting the same, in order to the preservation or legal disposal thereof, and may take therefrom moderate samples without present payment of duty or entry, and may remove the same under the authority of the said officer, from such warehousing port to any other warehousing port in Canada, under good and sufficient bonds to the satisfaction of such officer,—or upon entry at any frontier port or Custom House, under the authority and with the sanction of the Collector or chief officer of Customs at such port or Custom House,

And may remove the same in bond;

And may pass the same on to any other Warehousing

Digitized by Google

House, and under bonds to his satisfaction, and subject to such regulations as may be made in that behalf by the Governor in Council, the importer may pass the goods on to any warehousing port in any other part of Canada; port, in Bond, &c.

3. All such goods shall be finally cleared, either for exportation or home consumption, within two years from the date of the first entry and warehousing thereof; and in default thereof, the Collector or proper officer may sell such goods for the payment, first of the duties, and secondly of the warehouse rent and other charges, and the surplus, if any, shall be paid to the owner or his lawful agent,—and the Collector or proper officer may charge or authorize the occupier of the warehouse to charge a fair warehouse rent, subject to any regulation made by the Governor in Council in that behalf; Goods to be finally cleared within two years. In default, collector may sell.

4. But the collector may, if he sees no reason to refuse such permission, permit the importer to abandon any whole package or packages, for duties, without being liable to pay any duty on the same; and the same shall then be sold and the proceeds shall be dealt with as the duties would have been if paid; Importer may be allowed to abandon packages, and not to be liable for duty.

5. The Governor in Council may, by Regulations to be from time to time made in that behalf, dispense with or provide for the cancelling of Bonds for the payment of duties on goods actually deposited in warehouse under the Crown's Lock, on such terms and conditions and in such cases as he thinks proper; Bonds for duties in warehouse may be dispensed with in certain cases.

6. Goods warehoused shall continue to be liable for freight as if on shipboard. Liability for freight.

56. If any goods entered to be warehoused are not duly carried into and deposited in the warehouse,—or having been so are afterwards taken out of the warehouse without due entry and clearance,—or having been entered and cleared for exportation from the warehouse, are not duly carried and shipped, or otherwise conveyed out of Canada, or are afterwards relanded, sold, used or brought into Canada, without the permission of the proper officer of the Customs,—such goods shall be forfeited. Goods taken out for exportation and relanded, &c., to be forfeited.

57. All goods taken out of warehouse shall be subject to the duties to which they would be liable if then imported into Canada, and not to any other. Goods taken out of warehouse, subject to duties.

58. The importer of any cattle or swine may slaughter and cure and pack the same (or if such cattle or swine are imported in the carcass, may cure and pack the same) in bond; and the importer of any wheat, maize or other grain, may grind and pack the same in bond,—provided such slaughtering, curing, grinding and packing be done and conducted under such regulations and restrictions as the Governor in Council may from time Cattle and swine may be slaughtered, &c., and grain ground, in bond, under regulations to be made by the Governor in Council.

Digitized by Google

To extend to the substitution of beef and pork, &c.

time to time make for this purpose; and the said regulations may extend to the substitution of beef and pork, flour and meal in quantities equivalent to the produce of such cattle and swine, wheat, maize or other grain.

Sugar may be refined in bond.

59. The importer or owner of any sugar, molasses or other material from which refined sugar can be produced, may refine the same in bond,—provided such refining be done and conducted under such regulations and restrictions as the Governor in Council may from time to time make and impose for that purpose; and the same regulations may extend to the substitution of refined sugar in quantities equivalent to the produce of the sugar or other material so refined in bond.

Property in bond, how to be transferable.

60. The property of any whole package or packages, of any goods so warehoused shall be transferable from party to party on a *bonâ fide* bill of sale by the parties, or executed and delivered by a broker or other person legally authorized for or in behalf of the parties respectively.

Transfers to be entered by the Collector in a book to be open to the Public.

2. And any such sale shall be valid for the purposes of this Act, although the goods remain in the warehouse, provided that a transfer of such goods, according to the sale, is entered and signed by the parties in a book to be kept for that purpose by the Collector or other proper officer of the Customs, who shall keep such book and enter such transfers, with the dates thereof, upon application of the owners of the goods, and shall produce such book upon demand made;

New Proprietor may give bond, &c.

Bond of original bonder may be cancelled.

Proprietor to be deemed the Importer.

3. And upon such sale, the proper officer may admit fresh security to be given by the bond of the new proprietor of the goods or person having the control over the same, (with his sufficient surety, in cases where the former bond was given with surety,) and may cancel the bond given by the original bonder of such goods, or may exonerate him (and his surety if any he had,) to the extent of the fresh security so given; and the party being the proprietor of any such goods for the time being, shall then be deemed to be the importer thereof for the purposes of this Act.

Allowance for leakage, &c., how made.

61. The Governor in Council may, by regulation, authorize such allowance to be made for leakage, natural and unavoidable waste or deficiency on goods warehoused, as he deems expedient; but, except where it is otherwise provided by such regulations, the duties shall be payable on the quantity originally warehoused.

All charges and expenses of unshipping, landing, &c., to be borne by the Importer.

62. The unshipping, carrying and landing of all goods, and the bringing of the same to the examining warehouse or the proper place after landing, warehouse rent and expenses of safe keeping in warehouse, shall be performed by or at the expense of the importer of such goods, and in such manner and

Digitized by Google

and at such place as shall be appointed by the Collector or proper officer of Customs; and if any such goods be removed from the place so appointed without leave of such Collector or proper officer, they shall be forfeited.

63. No parcel of goods shall be taken out of warehouse, whether for consumption or exportation, or removal to some other port, unless the duties thereon amount to the sum of twenty dollars or upwards, or such parcel be all the goods remaining in warehouse and comprised in the same entry for warehousing.

Not less than a certain quantity of goods to be taken out of warehouse at one time.

64. If after any goods have been duly entered, or landed to be warehoused, or entered and examined to be rewarehoused, and before the same have been actually deposited in the warehouse, the importer further enters the same or any part, for home use or for exportation as from the warehouse,—the goods so entered shall be considered as virtually and constructively warehoused or rewarehoused, as the case may be, although not actually deposited in the warehouse, and may be delivered and taken for home use or for exportation.

Goods entered for warehousing to be deemed warehoused in certain cases.

65. Upon the entry outwards of any goods to be exported from the Customs' warehouse, either by sea or by land or inland navigation, as the case may be, the person entering the same shall give security by bond, in double the duties of importation on such goods, and with a sufficient surety, to be approved by the Collector or proper officer, that the same shall, when the entry aforesaid is by sea, be actually exported, and when the entry aforesaid is by land or inland navigation, shall be landed or delivered at the place for which they are entered outwards, or shall in either case be otherwise accounted for to the satisfaction of the Collector or proper officer, and that such proof or certificate that such goods have been so exported, landed or delivered, or otherwise legally disposed of, as the case may be, as shall be required by any regulation of the Governor in Council, shall be produced to the Collector or proper officer within a period to be appointed in such bond, and if any such goods are not so exported or are fraudulently relanded in or brought into Canada, in contravention of this Act and of the said bond, they shall be forfeited together with any vessel, boat or vehicle in which they are so relanded or imported.

Bond to be given on entry for exportation of goods from warehouse—conditions.

Forfeiture for contravention of conditions.

66. Any person making any entry outwards of goods from warehouse for exportation, not being the owner or duly authorized by the owner thereof, or the master of the vessel by which they are to be shipped shall, for each offence, forfeit two hundred dollars.

Who only may enter for exportation.

67. If within the period appointed as aforesaid from entry outwards there be produced a certificate annexed to the shipping warrant and signed by some principal officer of the

Upon what evidence the bond may be cancelled.

Digitized by Google

customs or colonial revenue at the place to which the goods were exported, or if such place be a foreign country, of any British consul or vice consul resident there, or an affidavit annexed to the warrant of any person resident at the place and certified by a notary public or magistrate, and in such certificate or affidavit it be stated that the goods were actually landed at some place out of Canada, as provided by the bond, or that they were lost, or that the vessel had never arrived at her destination and is supposed to be lost, the bond mentioned in the next preceding section shall be cancelled: all bonds not so cancelled within the period so appointed as aforesaid shall be enforced.

Warehoused goods taken as ships' stores.

68. Warehoused goods may be delivered as ships' stores for any vessel of the burden of fifty tons or upwards, bound on a voyage beyond seas, the probable duration of which out and home will not be less than thirty days, proof being first made by affidavit of the master or owner to the satisfaction of the proper officer, that the stores are necessary and intended for the voyage.

ENTRY OUTWARDS.

Entry of vessel outwards.

69. The master of every vessel bound outwards from any port in Canada to any port or place beyond seas, or on any voyage to any place within or without the limits of Canada, coastwise or by inland navigation, shall deliver to the Collector or other proper officer an entry outwards under his hand, of the destination of such vessel, stating her name, country and tonnage, (and if British, the port of registry,) the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such vessel; and before any goods or ballast are taken on board such vessel the master shall show that all goods imported in her, except such as were reported for exportation in the same vessel, have been duly entered,—except that the proper officer may issue a stiffening order that such goods or ballast as may be specified therein may be laden before the former cargo is discharged:

Particulars of such entry.

Stiffening order.

Content to be delivered.

Particulars required in it.

Declaration to be made.

2. And before such vessel departs, the master shall bring and deliver to the Collector, or other proper officer, a content in writing under his hand, of the goods laden, and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content as far as any of such particulars can be known to him;

Questions to be answered.

3. And the master of every such vessel, whether in ballast or laden, shall, before departure, come before the Collector or other proper officer, and answer all such questions concerning the vessel, and the cargo, if any, and the crew, and the voyage, as may be demanded of him by such officer, and if required shall

Digitized by Google

shall make his answers or any of them part of the declaration made under his hand, as aforesaid ;—and thereupon the Collector or other proper officer, if such vessel is laden, shall make out and give to the master a certificate of the clearance of such vessel for her intended voyage, with merchandize or a certificate of her clearance in ballast, as the case may be ; and if there be merchandize on board, and the vessel is bound to any port in Canada, such clearance shall state whether any and which of the goods are the produce of Canada, and if the goods are such as are liable to duties, whether the duties thereon have been paid ; and in such case the master shall hand the clearance to the collector at the next port in Canada at which he arrives, immediately on his arrival ;

Clearance to be granted : Contents.

4. And if the vessel departs without such clearance, or if the master delivers a false content, or does not truly answer the questions demanded of him, he shall forfeit the sum of four hundred dollars ;

Penalty for leaving without a clearance or not answering questions truly.

5. The Governor in Council may by Regulation, dispense with any of the preceding requirements of this section, which he deems it inexpedient to enforce, with regard to vessels generally or to vessels engaged in the coasting trade or inland navigation.

Dispensation as to coasting trade.

70. The Governor in Council may, by Regulations to be, from time to time, made in that behalf, require such information with regard to the description, quantity, quality and value of goods exported from Canada, or removed from one port to another in Canada, to be given to the proper Officer of the Customs, in the Entry of such goods outwards or otherwise, as he deems requisite for statistical purposes, whether such goods be exported or removed by sea, land or inland navigation.

Governor in Council may require statistical information as to exports.

71. No entry outwards nor any shipping warrant or warrant for taking goods from warehouse for exportation, shall be deemed valid, unless the particulars of the goods and packages shall correspond with the particulars in the entry inwards, nor unless they shall have been properly described in the entry outwards, by the character, denomination and circumstances under which they were originally charged with duty; and any goods laden or taken out of the warehouse by an entry outwards or shipping warrant not so corresponding or not properly describing them, shall be forfeited.

Entry outwards of goods from warehouse must correspond with entry inwards.

72. If the owner of any goods be resident more than ten miles from the office of the collector at the port of shipment, he may appoint an agent to make his entry outwards and clear and ship his goods, but the name of the agent and the residence of the owner shall be subjoined to the name in the entry and shipping warrant, and the agent shall make the declaration on the entry which is required of the owner, and shall answer

Entry outwards by agent in certain cases.

Digitized by Google

the questions that shall be put to him ; any trading corporation or company may appoint an agent for the like purposes.

STEAMERS—ENTRY INWARDS AND OUTWARDS.

Reports inwards or outwards may be made by pursers of Steamers.

73. The Report for entry, inwards or outwards, required by this Act, may, in the case of any steam vessel carrying a purser, be made by such purser with the like effect in all respects, and subject to the like penalty on the purser and the like forfeiture of the goods in case of any untrue report, as if the report were made by the master;—and the word "Master," for the purposes of this section, shall be construed as including the purser of any steam vessel; but nothing herein contained shall preclude the collector or proper officer of customs from calling upon the master of any steam vessel, to answer all such questions concerning the vessel, passengers, cargo and crew, as might be lawfully demanded of him if the report had been made by him, or to exempt the master from the penalties imposed by this Act for failure to answer any such question, or for answering untruly, or to prevent the master from making such report if he shall see fit so to do.

Proviso.

BILLS OF HEALTH.

Collectors may grant bills of health.

74. Whenever the collector of customs at any port is satisfied that in such port as well as in the adjacent city or town and its vicinity, there does not exist an extraordinary infectious, contagious or epidemic disease, which could be transferred by the vessel, her crew or cargo, he may grant to any vessel requiring a bill of health, a certificate under his hand and seal attesting the fact aforesaid, for which he shall be entitled to ask and receive a fee of one dollar.

SMUGGLING—AND OFFENCES CONNECTED THEREWITH.

Penalty on persons smuggling goods, using false invoices, &c.

75. If any person knowingly and wilfully, with intent to defraud the revenue of Canada, smuggles or clandestinely introduces into Canada any goods subject to duty, without paying or accounting for the duty thereon, or makes out or passes or attempts to pass through the Custom House, any false, forged or fraudulent Invoice, or in any way attempts to defraud the revenue by evading the payment of the duty or of any part of the duty on any goods, every such person, his, her or their aiders or abettors shall, in addition to any other penalty or forfeiture to which they may be subject for such offence, be deemed guilty of a misdemeanor, and on conviction shall be liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding one year, or both, in the discretion of the Court before whom the conviction is had.

Misdemeanor.

Imprisonment.

Forfeiture and penalty for offering for sale goods pre-

76. If any person offers for sale any goods under pretence that the same are prohibited, or have been unshipped and run on shore, or brought in, by land or otherwise, without payment of

Digitized by Google

of duties, then and in such case all such goods (although not liable to any duties nor prohibited) shall be forfeited, and every person offering the same for sale shall forfeit the treble value of such goods, or the penalty of two hundred dollars, at the election of the prosecutor, which penalty shall be recoverable in a summary way, before any one or more Justices of the Peace; and in default of payment on conviction, the party so offending shall be committed to any of Her Majesty's Jails for a period not exceeding sixty days.

tended to be smuggled.

77. If any person knowingly harbours, keeps, conceals, purchases, sells or exchanges any goods illegally imported into Canada, (whether such goods are dutiable or not) or whereon the duties lawfully payable have not been paid, such person shall for such offence forfeit treble the value of the said goods, as well as the goods themselves.

Penalty for harboring smuggled goods.

78. If any five or more persons in company are found together and they or any of them have any goods liable to forfeiture under this Act, every such person shall be guilty of misdemeanor and punishable accordingly.

Company of persons found with smuggled goods.

Misdemeanor.

79. Any person who by any means procures or hires any person or persons, or who deputes, authorizes or directs any person or persons to assemble for the purpose of being concerned in the landing or unshipping or carrying or conveying any goods which are prohibited to be imported, or the duties for which have not been paid or secured, shall, for every person so procured or hired, forfeit the sum of one hundred dollars.

Penalty for hiring persons to assist in smuggling, &c.,

80. If any warehoused goods are fraudulently concealed in or removed from any public or private warehouse in Canada, such goods shall be forfeited;—And any person fraudulently concealing or removing any such goods, or aiding or abetting such removal, shall incur the penalties imposed on persons illegally importing or smuggling goods into Canada:

Penalty on persons committing certain offences with regard to warehoused goods.

2. And if the importer or owner of any warehoused goods, or any person in his employ, by any contrivance fraudulently opens the warehouse in which the goods are, or gains access to the goods except in the presence of or with the express permission of the proper officer of the Customs acting in the execution of his duty,—such importer or owner shall for every such offence forfeit the sum of one hundred dollars;

Penalty for fraudulently opening warehouse.

3. And any person wilfully altering, defacing or obliterating any mark placed by any officer of the Customs on any package of warehoused goods, or goods in transit, shall for every such offence forfeit the sum of five hundred dollars.

Penalty for altering or defacing marks.

81. Except in cases which by any Regulation to be made by the Governor in Council may be excepted from the operation of this

Spirits not to be imported

Digitized by Google

except in certain vessels and packages.

this section,—all spirits (unless in bottle and imported from the United Kingdom or in bond from a bonded warehouse in some British Possession) brought into Canada in casks or packages of less size than to contain one hundred gallons, or in other than decked vessels of not less than thirty tons register, or that may be found on board of any vessel under such tonnage in any port in Canada, shall be forfeited, and the proof that any spirits landed in packages of less size than to contain one hundred gallons, have been lawfully imported and entered, shall always be upon the person offering the same for sale.

Onus of proof of legal importation.

Vessels, &c., used in conveying forfeited goods to be forfeited.

Penalty for assisting in landing, &c., such goods.

82. All vessels with the guns, tackle, apparel and furniture thereof, carriages, harness, tackle, horses, and cattle made use of in the removal of any goods liable to forfeiture under this Act, shall be forfeited ; and every person assisting or otherwise concerned in the unshipping, landing or removal, or in the harbouring of such goods, or into whose hands or possession the same knowingly come, shall, besides the goods themselves, forfeit treble the value thereof, or the penalty of two hundred dollars at the election of the officer of Customs or other party suing for the same :

Election of officer as to penalty how proved.

2. And the averment in any information or libel exhibited for the recovery of such penalty, that such officer or party has elected to sue for the sum mentioned in the information or libel, shall be sufficient proof of such election, without any other evidence of the fact.

Vessels found hovering may be boarded and examined.

Vessels continuing to hover may be brought into Port.

Penalty for not obeying the officer boarding.

83. If any vessel is found hovering (in British waters) within one league of the coasts or shores of Canada, any officer of Customs may go on board and enter into such vessel, and freely stay on board such vessel, while she remains within the limits of Canada or within one league thereof ;—And if any such vessel is bound elsewhere, and so continues hovering for the space of twenty-four hours after the master has been required to depart by such officer of Customs, such officer may bring the vessel into port, and examine her cargo, and if any goods prohibited to be imported into Canada are found on board, then such vessel with her apparel, rigging, tackle, furniture, stores and cargo, shall be forfeited ;—And if the master or person in charge refuses to comply with the lawful directions of such officer, or does not truly answer such questions as are put to him, respecting such ship and vessel or her cargo, he shall forfeit and pay the sum of four hundred dollars.

Penalty on persons on board smuggling vessels.

84. Every person proved to have been on board any vessel or boat liable to forfeiture for having been found within one league of the coasts or shores of Canada, having on board or attached thereto, or conveying or having conveyed any thing subjecting such vessel or boat to forfeiture, or who shall be proved to have been on board any vessel or boat from which any

Digitized by Google

any part of the cargo shall have been thrown overboard or destroyed, or in which any goods shall have been unlawfully brought into Canada, shall forfeit one hundred dollars, provided such person shall have been knowingly concerned in such acts.

Officers may board vessels and have free access to every part.

85. Officers of customs may board any vessel at any time or place and stay on board until all the goods intended to be unladen shall have been delivered: they shall have free access to every part of the vessel, with power to fasten down hatchways, the forecastle excepted, and to mark and secure any goods on board; and if any place, box or chest be locked, and the keys withheld, the officer may open the same. If any goods be found concealed on board they shall be forfeited, and if any mark, lock, or seal upon any goods on board, be wilfully altered, opened or broken, before the delivery of the goods, or if any goods be secretly conveyed away, or if hatchways fastened down by the officer be opened by the master, or with his assent, the master shall forfeit four hundred dollars.

May be stationed on board.

86. The collector or other proper officer of the customs may station officers on board any ship while within the limits of a port, and the master shall provide every such officer with suitable accommodation and food under a penalty of two hundred dollars.

Penalty for forging marks, &c., or selling goods with counterfeit marks.

87. If any person at any time forges or counterfeits any mark or brand to resemble any mark or brand provided or used for the purposes of this Act, or forges or counterfeits the impression of any such mark or brand, or sells or exposes to sale, or has in his custody or possession, any goods with a counterfeit mark or brand, knowing the same to be counterfeit, or uses or affixes any such mark or brand to any other goods required to be stamped as aforesaid, other than those to which the same was originally affixed, such goods so falsely marked or branded shall be forfeited, and every such offender, and his aiders, abettors or assistants, shall, for every such offence, forfeit and pay the sum of two hundred dollars; which penalty shall be recoverable in a summary way, before any two Justices of the Peace in Canada, and in default of payment the party so offending shall be committed to any of Her Majesty's Jails in Canada, for a period not exceeding twelve months:

Imprisonment in default of payment.

False swearing to be perjury.

2. And if any wilfully false oath be made in any case where by this Act an oath is required or authorized, the party making the same shall be guilty of wilful and corrupt perjury and liable to the punishment provided for that offence.

Penalty for counterfeiting or using counterfeited papers, &c.

Or forging certificates, &c.

88. If any person counterfeits or falsifies, or uses when so counterfeited or falsified, any paper or document required under this Act or for any purpose therein mentioned, whether written, printed, or otherwise, or by any false statement procures such document,—or forges or counterfeits any certificate relating to any oath, affirmation or declaration, hereby required

Digitized by Google

required or authorized, knowing the same to be so forged or counterfeited, such person shall be guilty of a misdemeanor and being thereof convicted, shall be liable to be punished accordingly.

Penalty for a false declaration or answer in cases not otherwise provided for.

89. Except in the cases otherwise provided for, if any declaration required to be made by this Act or by any Law relating to the Customs, or to trade or navigation, is untrue in any particular,—or except as aforesaid, if any person required by this Act or by any other law as aforesaid to answer questions put to him by any officer of the Customs touching certain matters, does not truly answer such questions,—the person making such untrue declaration or not truly answering such questions, shall, over and above any other penalty to which he becomes subject, forfeit the sum of four hundred dollars.

Officers employed in the Customs to be deemed employed for the prevention of smuggling.

90. Every officer and person employed under the authority of the *Act respecting the collection and management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants*, passed during the present Session, or in the collection of the revenue within the meaning of that Act, or under the direction of any officer or officers in the Customs Department, or being an officer of the said department, shall be deemed and taken to be duly employed for the prevention of smuggling;—

What averment of such employment shall suffice.

And in any suit or information, the averment that such party was so duly employed shall be sufficient proof thereof, unless the defendant in such suit or information shall prove to the contrary:

Their powers:

2. Any such officer or person as aforesaid, and any Sheriff or Justice of the Peace, or person residing more than ten miles from the residence of any officer of Customs and thereunto authorized by any Collector of Customs or Justice of the Peace, may, upon information or upon reasonable grounds of suspicion, detain, open

To search.

and examine any package suspected to contain prohibited property or smuggled goods, and may go on board of and enter into any vessel, boat, canoe, carriage, waggon, cart, sleigh, or other vehicle or means of conveyance of any description whatsoever, and may stop and detain the same, whether arriving

To detain vessels, carriages, &c.

from places beyond or within the limits of Canada, and may rummage and search all parts thereof, for prohibited,

To seize in certain cases.

forfeited or smuggled goods;—And if any such prohibited, forfeited or smuggled goods are found in any such vessel or vehicle, the officer or person so employed may seize and secure such vessel or vehicle, together with all the sails, rigging, tackle, apparel, horses, harness, and all other appurtenances which at the time of such seizure belong to or are attached to such vessel or vehicle, with all goods and other things laden therein or thereon, and the same shall be forfeited;

To call on persons to assist.

3. The officer or person in the discharge of the said duty may call in such lawful aid and assistance in the Queen's name, as may

Digitized by Google

may be necessary for securing and protecting such seized vessels, vehicles or property ;—And if no such prohibited, forfeited or smuggled goods are found, such officer or person, having had reasonable cause to suspect that prohibited, forfeited or smuggled goods would be found therein, shall not be liable to any prosecution or action at law for any such search, detention or stoppage ;

Reasonable cause of suspicion to be their justification.

4. Every master or person in charge of any such vessel, and every driver or person conducting or having charge of any such vehicle or conveyance, refusing to stop when required to do so by such officer or person as aforesaid in the Queen's name, and any person being present at any such seizure or stoppage, and being called upon in the Queen's name by such officer or person to aid and assist him in a lawful way, and refusing so to do, shall forfeit and pay the sum of two hundred dollars, which penalty shall be summarily recovered before any two Justices of the Peace in Canada, and in default of payment the offender shall be committed to any of Her Majesty's Jails in Canada, for a period not exceeding six months.

Penalty for refusing to stop ;

Or to assist.

Mode of recovery.

91. Any officer of customs having first made oath before a Justice of the Peace that he has reasonable cause to suspect that goods liable to forfeiture are in any particular building, may, in company with a peace officer who is hereby required to accompany him, enter such building at any time between sunrise and sunset, but if the doors are fastened then admission shall be first demanded, and the purpose for which entry is required declared, when, if admission shall not be given, the two officers may forcibly enter, and when in either case entry shall be made, the customs officer shall search the building and seize all forfeited goods : these acts may be done by an officer of customs without oath or the assistance of a Justice of the Peace, in places where no justice resides, or where no justice can be found within five miles at the time of search.

Power to enter building, &c., in the day time.

92. Under authority of a Writ of Assistance granted either before or after the coming into force of this Act, (and all such Writs theretofore granted shall remain in full force for the purposes of this Act,) by any Judge of the Court of Queen's Bench or of the Common Pleas in the Province of Ontario, of the Superior Court or of the Court of Vice Admiralty in the Province of Quebec, or of the Supreme Court in Nova Scotia, or of the Court of Queen's Bench in New Brunswick, having jurisdiction in the place (who shall grant such Writ of assistance upon application made to him for that purpose by the Collector or principal officer of the Customs at the port or place, or by Her Majesty's Attorney General for Canada,)—any officer of the Customs, or any person employed for that purpose with the concurrence of the Governor in Council, expressed either by special order or appointment or by general regulation,

Writs of assistance how obtainable, and the powers of those acting under them.

Digitized by Google

How search shall be made.

regulation, taking with him a peace officer, may enter at any time in the day or night into any building or other place within the jurisdiction of the Court granting such Writ, and may search for and seize and secure any goods liable to forfeiture under this Act, and in case of necessity, may break open any doors and any chests or other packages for that purpose;—And such Writ of Assistance, when issued, shall be in force during the whole of the Reign in which the same shall have been granted, and for twelve months from the conclusion of such Reign.

Duration of Writ.

Power to search the person, for smuggled goods.

93. Any officer of customs, or person by him authorized thereunto, may search any person on board any vessel or boat within any Port in Canada or in any vessel, boat, vehicle entering Canada by land or inland navigation, or any person who may have landed or got out of such vessel, boat or vehicle, provided the officer or person so searching has reasonable cause to suppose that the person searched, may have uncustomed or prohibited goods secreted about his person; and whoever obstructs or offers resistance to such search or assists in so doing shall thereby incur a forfeiture of one hundred dollars; and any person who may be on board of or may have landed from or got out of such vessel, boat or vehicle, may be questioned by such officer whether he has any dutiable goods about his person, and if he denies having any such goods or does not produce such as he may have, and any such goods are found upon him on being searched, the goods shall be forfeited and he shall forfeit treble the value thereof:—

Penalty for resisting search.

Proviso.

2. Provided that before any person can be searched as aforesaid, such person may require the officer to take him or her before some Justice of the Peace, or before the collector or chief officer of the customs at the place, who shall, if he see no reasonable cause for search, discharge such person, but if otherwise he shall direct such person to be searched, and if a female she shall not be searched by any but a female;

Females.

Proviso: Searching without reasonable cause.

3. Any officer required to take any person before a Justice of the Peace or chief officer of customs as aforesaid, shall do so with all reasonable dispatch; and if any officer requires any person to be searched without reasonable cause for supposing that he has uncustomed or prohibited goods about his person, such officer shall forfeit and pay any sum not exceeding forty dollars.

To what place goods, &c., are to be taken.

94. If any goods, vessel, or carriage, subject or liable to forfeiture under this Act or any other Law relating to the Customs is stopped or taken by any Police Officer or any person duly authorized,—such goods shall be carried to the Custom House next to the place where the goods were stopped or taken, or to the place which has been appointed for that purpose by the Governor in Council, and there delivered to the proper officer appointed to receive the same, within forty-eight hours after the said goods were stopped and taken.

95.

Digitized by Google

95. If any such goods are stopped or taken by such Police Officer on suspicion that the same have been feloniously stolen, such Officer shall carry the same to the Police Office to which the offender is taken, there to remain until, and in order to be produced at, the trial of the said offender;—And in such case, the Officer shall give notice in writing to the Collector or principal officer of Her Majesty's Customs, at the port nearest to the place where such goods have been detained, of his having so detained the said goods with the particulars of the same; And immediately after the trial, all such goods shall be conveyed to and deposited in the Custom House or other place appointed as aforesaid, and proceedings relative to the same shall be had according to Law:

How smuggled goods stopped on suspicion of being stolen, and taken to the Police office, shall be dealt with.

2. And in case any Police Officer having detained such goods, neglects to convey the same to such warehouse, or to give such notice of having stopped the same as before prescribed, such officer shall forfeit the sum of one hundred dollars; and such penalty shall be recoverable in a summary way before any one or more Justices of the Peace, and in default of payment the party so offending shall be committed to any of Her Majesty's Jails for a period not exceeding thirty days.

Penalty on any Police Officer neglecting to obey this section.

96. If any person whatever, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away any goods, vessel, carriage or other thing which has been seized or detained on suspicion, as forfeited under this Act, before the same has been declared by competent authority to have been seized without due cause, and without the permission of the officer or person having seized the same, or of some competent authority,—such person shall be deemed to have stolen such goods, being the property of Her Majesty, and to be guilty of felony, and shall be liable to punishment accordingly.

Punishment of persons taking away goods, &c., seized:

Offence to be felony.

97. If any person, under any pretence, either by actual assault, force or violence, or by threats of such assault, force or violence, in any way resists, opposes, molests or obstructs any officer of Customs, or any person acting in his aid or assistance, in the discharge of his or their duty under the authority of this Act, or any other Law in force in Canada relating to Customs, trade or navigation,—or wilfully or maliciously shoots at or attempts to destroy or damage any vessel, belonging to Her Majesty, or in the service of the Dominion of Canada, or maims or wounds any officer of the Army, Navy, Marine, or Customs, or any person acting in his aid or assistance, while duly employed for the prevention of smuggling, and in execution of his or their duty,—or if any person is found with any goods liable to seizure or forfeiture, under this Act or any other Law relating to Customs, trade or navigation, and carrying offensive arms or weapons, or in any way disguised,—or staves, breaks or in any way destroys any such goods, before or after the actual seizure

Punishment of persons obstructing, assaulting or resisting officers, &c.

Firing at H. M's. vessels.

Wounding persons in H. M's. service;

Or having goods liable to seizure, and being armed or disguised;

Digitized by Google

seizure thereof,—or scuttles, sinks or cuts adrift any vessel, or destroys or injures any vehicle, before or after the seizure,—or wilfully and maliciously destroys or injures by fire or otherwise any Custom-house, on any building whatsoever in which seized, forfeited or bonded goods are deposited or kept,—such person being convicted thereof, shall be adjudged guilty of felony, and shall be punishable accordingly.

Or destroying vessels or goods, or any Custom house, &c.

Such offences to be felony.

98. If any officer of the Customs, or any person who, with the concurrence of the Governor in Council expressed either by special order or appointment or by general regulation, is employed for the prevention of smuggling, makes any collusive seizure, or delivers up, or makes any agreement to deliver up or not to seize any vessel, boat, carriage, goods or thing liable to forfeiture under this Act, or takes, or accepts a promise of, any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty, such officer or other person shall forfeit for every such offence the sum of two thousand dollars, and be rendered incapable of serving Her Majesty in any office whatever;—And every person who gives or offers or promises to give or procure to be given, any bribe, recompense or reward to, or makes any collusive agreement with any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to conceal, or connive at any act whereby the provisions of this Act or any law relating to the Customs, trade or navigation, might be evaded, shall forfeit the sum of two thousand dollars.

Penalty on officers of the Customs, &c., conniving at any evasion of the Revenue Laws;

And on persons bribing or offering to bribe them to connive.

PROCEDURE FOR ENFORCING PENALTIES.

99. All penalties and forfeitures, incurred under this Act, or any other law relating to the Customs or to trade or navigation, may be prosecuted, sued for and recovered in the Superior Courts of Law, or Court of Vice Admiralty having jurisdiction in that Province in Canada where the cause of prosecution arises, or wherein the Defendant is served with process;—And if the amount or value of any such penalty or forfeiture does not exceed two hundred dollars, the same may in the Provinces of Ontario, Quebec and New Brunswick respectively, also be prosecuted, sued for and recovered in any County Court or Circuit Court having jurisdiction in the place where the cause of prosecution arises or where the defendant is served with process.

In what Courts penalties and forfeitures shall be recoverable.

If the amount be under $200.

100. All penalties and forfeitures imposed by this Act or by any other Act relating to the Customs or to trade or navigation, shall, unless other provision be made for the recovery thereof, be sued for, prosecuted and recovered with costs by Her Majesty's Attorney General for Canada, or in the name or names of some officer or officers of the Customs, or other person or persons thereunto authorized by the Governor in Council, either expressly or by general regulation or order, and

In whose name prosecutions may be brought.

Digitized by Google

and by no other party; and if the prosecution be brought before any County Court or Circuit Court, or before any Justices of the Peace, it shall be heard and determined in a summary manner upon information filed in such Court.

101. All penalties and forfeitures imposed by this Act or by any other Law relating to the Customs or to Trade or Navigation, may, in the Province of Quebec, be sued for, prosecuted and recovered with costs by the same form of proceeding as any other moneys due to the Crown, and all suits or prosecutions for the recovery thereof, shall, in that Province, be heard and determined in like manner as other suits or prosecutions in the same Court for moneys due to the Crown, except that in the Circuit Court the same shall be heard and determined in a summary manner as provided in this Act:

How penalties and forfeitures shall be recoverable in the Province of Quebec.

2. But nothing in this section shall affect any provision of this Act, except such only as relate to the form of proceeding and of trial in such suits or prosecutions as aforesaid.

Proviso.

102. If the prosecution to recover any penalty or forfeiture imposed by this Act, or by any other law relating to the Customs or to Trade or Navigation, is brought in any Superior Court of Law in either of the Provinces of Ontario, Nova Scotia or New Brunswick, it shall be heard and determined as prosecutions for penalties and forfeitures are heard and determined in Her Majesty's Court of Exchequer in England, in so far as may be consistent with the established course and practice of the Court in which the proceeding is instituted, and with any law relating to the procedure in such Province, in suits instituted on behalf of the Crown in matters relating to the Revenue; and any such practice and law shall apply to prosecutions for the recovery of forfeitures and penalties under this Act, in whatever Court they are instituted, so far as they can be applied thereto consistently with this Act, and the *venue* in any such case may be laid in any County in the Province in which the proceeding is had, without alleging that the offence was there committed.

How penalties and forfeitures shall be recoverable in Ontario, N. B. or N. S.

103. Provided that if notice of intent to claim has been given and the value of the goods or thing seized do not exceed one hundred dollars, and the prosecutor chooses to proceed under this section, he shall forthwith cause the goods to be valued by a competent appraiser, who shall certify them to be under the said value, and an information in writing may be exhibited in the name of the collector at or nearest to the place of seizure before two justices of the peace, charging the articles seized as forfeited under some particular Act and section thereof to be therein referred to, and praying condemnation thereof; and the justices shall there upon issue a general notice for all persons claiming interest in the seizure to appear at a certain time and place there to claim the articles seized and answer

Proceedings before Justices of the Peace in certain cases.

Notice to parties.

Digitized by Google

answer the information, otherwise such articles will be condemned; and a copy of the notice shallat least eight days before the time of appearance be served upon the person from whose possession the things were taken, or shall be left at or affixed to the building or vessel in which they were seized, if there remaining, or at two public places nearest the place of seizure: If any person appears to answer the information, the justices shall hear and determine the matter and acquit or condemn the articles, but if no person appears, judgment of condemnation shall be given; and the justices on condemnation shall issue a warrant to the collector to sell the goods;—

Hearing if the case is defended, &c.

Court.

2. Such two Justices shall be deemed a Court, and each of them to be a judge thereof for the purposes of this Act.

Defendant appearing may be required to give security for the penalty and costs, or imprisoned until he does so.

104. Upon the exhibiting or filing of any information or other proceeding for the recovery of any penalty or forfeiture under the provisions of this Act, any Judge of the Court in which the prosecution is brought, may, upon affidavit filed by the officer or person bringing such prosecution, showing that there is reason to believe that the defendant will leave the Province without satisfying such penalty or forfeiture,—issue a warrant under his hand and seal for the arrest and detention of the defendant in the Common Jail of the County, District or place, until he has given security, (before and to the satisfaction of such Judge or some other Judge of the same Court) for the payment of such penalty with costs, in case he be convicted or judgment be given against him;

Sufficient averment in information, &c.

2. In any such information or proceeding it shall be sufficient to state the penalty or forfeiture incurred and the Act or section under which it is alleged to have been incurred, without further particulars;

That any person was an officer of Customs.

3. In every such information or proceeding, the averment that the person seizing was and is an officer of the Customs shall be sufficient evidence of the fact alleged unless it be contradicted by some superior officer of the customs;

Those who recover any penalty or forfeiture, to have full costs of suit.

4. And in every information, suit or proceeding brought under this Act for any penalty or forfeiture, or upon any bond given under it, or in any matter relating to the Customs, Her Majesty, or those who sue for such penalty or forfeiture, or upon such bond, shall, if they recover the same, be entitled also to recover full costs of suit;—And all such penalties and costs, if not paid, may be levied on the goods and chattels, lands and tenements of the Defendant, in the same manner as sums recovered by judgment of the Court in which the prosecution is brought may be levied by execution, or payment thereof may be enforced by *capias ad satisfaciendum* against the person of the defendant under the same conditions and in like manner; if in any case the Attorney General, or whoever acts in his name, is satisfied that

How penalties and costs may be levied.

Digitized by Google

that the penalty or forfeiture was incurred without intended fraud, he may enter a *nolle prosequi* on such terms as he may see fit, and which shall be binding on all parties, reporting the same to the Minister of Customs with his reasons.

Nolle prosequi on terms.

105. In any prosecution or other proceeding, for an offence against this Act or any other law relating to the Customs, or to trade and navigation, the averment that such offence was committed within the limits of any district, county, port or place shall be sufficient without proof of such limits, unless the contrary is proved.

Averment as to the doing of any thing within the limits of any port.

106. If any goods are seized for non-payment of duties or any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act or any other law relating to the Customs, and any question arises whether the duties have been paid on such goods, or the same have been lawfully imported, or lawfully laden or exported, or whether any other thing hath been done by which such forfeiture would be prevented or such penalty avoided,—the burden of proof shall lie on the owner or claimant of the goods, and not on the officer who has seized and stopped the same, or the party bringing such prosecution.

Proof that goods have paid duty to lie on the owner.

107. So soon as an information has been exhibited in any Court for the condemnation of any vessel, goods or thing so seized, notice thereof shall be put up in the office of the Clerk or Prothonotary of the Court, and also in the office of the Collector at the port at which the vessel, goods or thing has been seized as aforesaid: and if it be a vessel shall also be nailed on a mast thereof, or posted on some other conspicuous place on board;

Notices to be posted in the Custom House and in the office of the Clerk of the Court.

2. If the owner or person having charge of the vessel, goods or thing, exhibits a claim to the same or to any part thereof, and gives security, and complies with all the requirements of this Act in that behalf, then the said Court at its sitting next after the said notice has been so posted during one month, may proceed to hear and determine any claim which has been validly made and filed in the meantime, and to the release or condemnation of such vessel, goods or thing as the case requires—otherwise the same shall, after the expiration of such month, be deemed to be condemned as aforesaid, and may be sold without any formal condemnation thereof;

When the case shall be heard if claim be made, and security given.

3. No claim on the behalf of any party who has given notice of his intention to claim before the posting of such notice as aforesaid, shall be admitted, unless validly made within one week after the posting thereof;—nor shall any claim be admitted, unless notice thereof has been given to the Collector within one month from the seizure as aforesaid.

Claims not to be admitted unless made within a certain time; Nor without notice.

108.

Digitized by Google

How claims must be entered, in order to be valid.

108. No claim to any thing seized under this Act, and returned into any of Her Majesty's Courts for adjudication, shall be admitted as valid, unless such claim is entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing is made by the owner, or by his agent knowing the fact, by whom such claim is entered, to the best of his knowledge and belief, nor unless the claimant do, at the time of entering such claim, appear and plead.

Claim not to be valid unless security be given to pay the costs and any penalty incurred.

109. No person so admitted to claim, as aforesaid, shall enter a claim to, or shall be deemed to have validly claimed any vessel, goods or thing seized in pursuance of this Act, or of any law relating to the Customs or to trade or navigation, until sufficient security has been given to the satisfaction of the Court where such seizure is prosecuted, in a penalty not exceeding two hundred dollars, to answer and pay the costs occasioned by such claim, and any penalty incurred by the claimant in respect of such vessel, goods or thing;—And in default of giving such security, such vessel, goods or thing, shall be dealt with as if no claim had been made, and after the lapse of the period in that behalf provided shall be deemed to be condemned.

Things seized to be deemed condemned, if not claimed within a certain time.

110. All vessels, vehicles, goods and other things seized as forfeited under this Act or any other Act relating to Customs, or to trade or navigation, shall be placed in the custody of the nearest Collector, and secured by him, or if seized by any officer in charge of a revenue vessel, shall be retained on board thereof, until her arrival in port, and shall be deemed and taken to be condemned, without suit, information or proceedings of any kind, and may be sold and the proceeds of the sale may be dealt with accordingly, unless the person from whom they were seized, or the owner thereof do, or some person on his behalf, within one month from the day of seizure, give notice in writing to the seizing officer or other chief officer of Customs at the nearest port, that he claims or intends to claim the same; and the burden of proof that such notice was duly given in any case shall always lie upon such owner;

Notice of claim required.

They may be delivered to the owner on due security being given.

2. But any Collector of Customs may, as may also any Judge having competent jurisdiction to try and determine the seizure, with the consent of the Collector at the place where the seized, articles are secured, order the delivery thereof to the owner, on the deposit with him in money of a sum at least equal to the full value (to be determined by the Collector) of the goods seized and the estimated costs of the prosecutor in the case, or on receiving security by bond with two sufficient sureties, to be first approved by such Collector, to pay double the value and costs in case of condemnation,—which bond shall be taken to Her Majesty's use in the Collector's name, and shall be delivered to and kept by such Collector;—And in case such seized articles are condemned, the value thereof and costs shall be forthwith paid to the Collector and the bond cancelled, otherwise the money

Conditions of the bond.

Enforcing bond.

Digitized by Google

money deposited shall be forfeited or the penalty of such bond shall be enforced and recovered, as the case may be.

111. In case of the seizure of any horse or other cattle or animal, or of any perishable article, the Collector of the port at which the same has been secured as aforesaid, may sell the same within such delay as to prevent its becoming deteriorated in value, or a part of the value consumed, by reason of the expense of keeping or the decay of the same, as if it had been condemned,—and may keep in his hands the proceeds of such sale until the same has been condemned, or deemed to be condemned, or ordered to be restored to any claimant, in which last mentioned case, the Court before which the claim is heard shall order the Collector to pay over to the claimant the proceeds of such sale, in lieu of awarding restitution;

Cattle and perishable articles seized may be sold as if condemned.

Proceeds restored, if the seizure be declared null.

2. Nevertheless, the Collector or principal officer of Customs shall deliver up to any claimant, any horse, or other cattle, or animal, or perishable article seized as aforesaid, upon such claimant depositing in the hands of the Collector or principal officer such sum of money as will represent the full value thereof, or giving security to the satisfaction of such Collector or principal officer, that the value of such seizure and all costs shall be paid to the use of Her Majesty, if such article be condemned.

Such cattle or article may be delivered to the owner on security being given.

112. All sales of goods forfeited or otherwise liable to be sold by any Officer of the Customs under this Act shall be by public auction, and after a reasonable public notice, and subject to such further regulations as may be made by the Governor in Council;—but in any case the Minister of Customs may order vessels, goods or things forfeited to be disposed of as he may see fit instead of being sold by public auction.

Sales to be by public auction.

113. The forfeiture and penalty, after deducting the expenses of prosecution, shall, unless it be otherwise provided, belong to Her Majesty for the public uses of the Dominion;

Appropriation of penalty and forfeitures.

2. But the net proceeds of such penalty or forfeiture, or any portion thereof, may be divided between and paid to the Collector or chief officer of the Customs at the port or place where the seizure was made or the information given on which the prosecution was founded, and any person having given information or otherwise aiding in effecting the condemnation of the goods, vessel or thing seized or the recovery of the penalty, in such proportions as the Governor in Council may in any case or class of cases direct and appoint; But nothing herein contained shall be construed to limit or affect any power vested in the Governor in Council with regard to the remission of penalties or forfeitures by this Act or any other law.

Distribution of the proceeds of penalties and forfeitures.

Power to remit penalty.

Digitized by Google

Limitation of time for bringing suits for penalties, &c.

114. All actions or suits for the recovery of any of the penalties or forfeitures imposed by this Act, or any other Law relating to the Customs, may be commenced or prosecuted at any time within three years after the offence committed by reason whereof such penalty or forfeiture was incurred, but not afterwards, and the goods or thing forfeited shall be liable to seizure during the same period.

Appeals from convictions before Justices of the Peace.

115. An appeal shall lie from the conviction by any Justices of the Peace under this Act, in the manner provided by law from convictions in cases of summary conviction, in that Province in which the conviction was had, on the appellant furnishing security by bond or recognizance with two sureties to the satisfaction of such convicting Justices, to abide the event of such appeal;

And from County and Circuit Courts.

2. And an appeal shall also lie from the County Courts and Circuit Court, and from decisions or judgments of the Superior Courts of Law respectively, in cases where the amount of the penalty or forfeiture is such that if a judgment for a like amount were given in any civil case, an appeal would lie, and such appeal shall be allowed and prosecuted on like conditions, and subject to like provisions as other appeals from the same Court, in matters of like amount;

The Attorney General or Collector &c., appealing need not give security.

3. But if the appeal be brought by Her Majesty's Attorney General, or a Collector or officer of the Customs, it shall not be necessary for him to give any security on such appeal.

Restoration of goods, &c., not to be prevented by appeal, provided security be given.

116. In any case in which proceedings have been instituted in any Court against any vessel, goods or thing, for the recovery of any penalty or forfeiture under this Act or any law relating to the Customs, trade or navigation, the execution of any decision or judgment for restoring the vessel, goods or thing to the claimant thereof, pronounced by the Court in which the proceedings have been had, shall not be suspended by reason of any appeal prayed and allowed from such decision or judgment,—provided the party appellant gives sufficient security, to be approved of by the Court, to render and deliver the vessel, goods or thing concerning which such decision or judgment is pronounced, or the full value thereof, (to be ascertained, either by agreement between the parties, or in case the said parties cannot agree, then by appraisement under the authority of the said Court) to the appellant, in case the decision or judgment so appealed from be reversed and such vessel, goods or thing be ultimately condemned.

On the trial of the validity of any seizure, no costs shall be recovered by plaintiff, if

117. If any information or suit is brought to trial, or determined, on account of any seizure made under this Act or any Law relating to the Customs, and a verdict is found, or decision or judgment given for the claimant thereof,

Digitized by Google

thereof, and the Judge or Court before whom the cause has been tried or brought, certifies on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment or other suit or prosecution on account of such seizure ;—And if any action, indictment, or other suit or prosecution is brought to trial against any person on account of his making or being concerned in the making of such seizure, wherein a verdict or judgment is given against the defendant, the plaintiff, if probable cause is certified as aforesaid on the record, shall not, besides the thing seized or the value thereof, be entitled to more than twenty cents damages nor to any costs of suit, nor shall the defendant in such prosecution in such case be fined more than ten cents.

probable cause of seizure be certified.

Damages limited in actions arising out of seizure if probable cause for such seizure existed.

118. If any goods, ship, or boat, be seized as forfeited, or detained as undervalued, the Minister of customs may order the same to be restored on such terms as he may direct; and if the owner accept the terms he shall have no action on account of the seizure or detention, nor shall any proceedings be had for condemnation and the terms may be enforced by or on behalf of the Crown.

Minister of customs may order restitution on terms, which may be enforced.

PROTECTION OF OFFICERS.

119. No writ shall be sued out against, nor a copy of any process served upon any officer of the Customs or person employed for the prevention of smuggling as aforesaid, for any thing done in the exercise of his office, until one month after notice in writing has been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of the action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent ;—And no evidence of any cause of such action shall be produced except of such as is contained in such notice,—and no verdict or judgment shall be given for the plaintiff, unless he proves on the trial, that such notice was given ;—and in default of such proof, the defendant shall receive a verdict or judgment and costs.

What notice of action for things done under this Act shall be given.

What evidence only may be adduced on the trial.

Costs.

120. Any such officer or person against whom an action is brought on account of any such seizure, or of any thing done in the exercise of his office, may, within one month after such notice, tender amends to the party complaining or his agent, and plead such tender in bar to the action, together with other pleas ; and if the Court or jury (as the case may be) find the amends sufficient they shall give a judgment or verdict for the defendant ; and in such case, or in case the plaintiff becomes non-suited, or discontinues his action, or judgment is given for the defendant upon demurrer or otherwise, then such defendant

Officer may tender amends and plead such tender in bar.

Costs to defendant, if successful.

Digitized by Google

defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only; But the defendant, by leave of the Court in which the action is brought, may, at any time before issue joined, pay money into Court as in other actions.

Money may be paid into Court.

Action to be brought within a certain time and at a certain place.

Costs.

121. Every such action must be brought within three months after the cause thereof, and laid and tried in the place or district where the facts were committed ;—and the defendant may plead the general issue, and give the special matter in evidence ;—And if the plaintiff becomes non-suited or discontinues the action, or if upon a demurrer or otherwise, judgment is given against the plaintiff, the defendant shall recover costs, and have such remedy for the same as any defendant has in other cases where costs are given by Law.

If probable cause be certified upon the record, the plaintiff's costs and damages limited.

122. If in any such action, the Court or Judge before whom the action is tried certifies upon the record that the defendant in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than twenty cents damages nor to any costs of suit, nor shall the person who made the seizure be liable to any civil or criminal suit or proceeding on account thereof.

ORDERS OF THE GOVERNOR IN COUNCIL.

Governor in Council may make regulations;

123. In addition to the purposes and matters hereinbefore or hereinafter mentioned,—the Governor in Council may from time to time, and in the manner hereinafter provided, make Regulations for or relating to the following purposes and matters:

Slaughtering cattle or grinding grain in bond;

1. For the warehousing and bonding of such cattle and swine as may be slaughtered and cured, and of such wheat, maize and other grain as may be ground and packed, in bond, and of such sugar as may be refined in bond;

Branding and marking goods, tare;

2. For the branding and marking of all duty-paid goods, and goods entered for exportation, and for regulating and declaring what allowances shall be made for tare on the gross weight of goods;

Coasting trade; and inland navigation.

3. For declaring what shall be coasting trade, or inland navigation, respectively, and how the same shall be regulated in any case or class or classes of cases, and for relaxing or dispensing with any of the requirements of this Act, as to vessels engaged in such trade, on any conditions which he may see fit to impose;

Ports of Entry, &c.

Passing canals, &c.

4. For appointing places and ports of entry, and warehousing and bonding ports, and respecting goods and vessels passing the Canals, and respecting the horses, vehicles and personal baggage

Digitized by Google

baggage of travellers, coming into Canada or returning thereto, or passing through any portion thereof;

5. For exempting from duty any flour or meal or other produce of any wheat or grain grown in and taken out of Canada into the United States to be ground, and brought back into Canada within two days after such wheat or grain has been so taken out to be ground,—or any boards, planks or scantling the produce of any logs or timber grown in and taken out of Canada into the United States to be sawn, and brought back into Canada within seven days after such logs or timber were so taken out to be sawn; — Exempting produce of grain or logs grown in the Province, &c., for duty in certain cases;

6. For regulating the quantity to be so taken out or brought in at any one time by any party, and the mode in which the claim to exemption shall be established and proved; — Quantity, so exempted.

7. For authorizing the appointment of warehouses, and regulating the security which shall be taken from warehouse keepers, the forms and conditions subject to which goods are to be warehoused, the mode of keeping goods in warehouse, the allowance for natural waste or deficiency, and the amount of warehouse rent; — Warehousing; and Ware.

8. For extending upon application, and if he sees fit, and either by general regulation or by special order, the time for clearing warehoused goods, and for the transport of goods in bond from one port or place to another; — Extending time for clearing warehouse goods;

9. For regulating the form in which transfers of goods in warehouse or bond from one party to another shall be entered; — Transfers of goods in bond;

10. For exempting goods from duty as being the growth produce or manufacture of Prince Edward's Island or Newfoundland, if such exemption be provided for by any Act relating to Customs, and for regulating the mode of proving such exemption; — Exemptions from duty of goods from B. N. A. Provinces.

11. For appointing the manner in which the proceeds of penalties and forfeitures shall be distributed; — Distribution of penalties;

12. For authorizing the taking of such bonds and security as he deems advisable for the performance of any condition on which any remission or part remission of duty, indulgence or permission is granted to any party, or of any other condition made with such party, in any matter relating to the Customs or to trade or navigation;—And such bonds, and all bonds taken with the sanction of the Minister of Customs, expressed either by General Regulation or by Special Order, shall be valid in law, and upon breach of any of the conditions thereof, may be sued and proceeded upon in like manner as any other bond entered into under this Act or any other law relating to the Customs; — Taking of bonds; — Bonds taken with his sanction to be valid.

13.

Digitized by Google

Recital of case.

13. And whereas it frequently happens that goods are conveyed directly through the Canadian Canals, or otherwise by land or inland navigation, from one part of the frontier line between the Dominion of Canada and the United States to another, without any intention of unlading such goods in Canada, and that travellers in like manner, pass through a portion of Canada or come into it with their carriages, horses or other cattle drawing the same, and personal baggage, with the intention of forthwith returning to the United States, or having gone to the United States from Canada, return to it with such articles,—and, though the bringing of such goods and other articles into Canada is strictly an importation thereof, it may nevertheless be inexpedient that duties should be levied thereon;

Governor in Council may make regulations as to the passing of goods through the Canadian Canals, &c.

Forfeiture for contravention.

With regard to all such cases as aforesaid, the Governor in Council may, from time to time and as occasion may require, make such Regulations as to him seem meet, and may direct under what circumstances such duty shall be or shall not be paid, and on what conditions it shall be remitted or returned, and may cause such bonds or other security to be given, or such precautions to be taken at the expense of the importer (whether by placing Officers of the Customs on board any such vessel or carriage or otherwise) as to him seem meet; and on the refusal of the importer to comply with the Regulations to be so made, the duty on the goods so imported shall forthwith become payable;—And all and every horse and carriage, vehicle or goods of any kind, brought into Canada by any traveller exempted from duty under such Regulation or otherwise, shall, if sold or offered for sale in Canada, provided the duties thereon have not been previously paid, be held to have been illegally imported, and shall be forfeited, together with the harness or tackle employed therewith or in the conveyance thereof;

Other purposes.

General regulations to have the effect of special orders in cases to which they apply.

14. For any other purpose for which by this Act or any other law relating to the Customs or to trade and navigation, the Governor in Council is empowered to make Orders or Regulations;—it being hereby declared competent for him (if he deems it expedient) to make General Regulations in any matter in which he may make a Special Order, and any such General Regulation shall apply to each particular case within the extent and meaning thereof, as fully and effectually as if the same referred directly to each particular case within the intent and meaning thereof, and the officers, functionaries and parties had been specially named therein.

Governor in Council may prohibit the exportation, &c., of certain goods.

124. The Governor in Council may, by proclamation or order in council, at any time, and from time to time, prohibit the exportation or the carrying coastwise or by inland navigation, of the following goods:—Arms, ammunition and gunpowder, military and naval stores, and any articles which the Governor in

Digitized by Google

in Council shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions or any sort of victual which may be used as food by man; and if any goods so prohibited be exported, carried coastwise, or by inland navigation, or waterborne or laden in any railway carriage or other vehicle, for the purpose of being so exported or carried, they shall be forfeited.

125. In any Regulation made by the Governor in Council, under this Act, any oath, affirmation or declaration may be prescribed and required which the Governor in Council deems necessary to protect the Revenue against fraud; and any person or officer may be authorized to administer the same, and by any such regulation, a declaration may be substituted for an oath or affirmation in any case where an oath or affirmation is required by this Act.

Regulations by Governor in Council may require oaths &c.

Or substitute declarations for oaths, &c.

126. All goods shipped or unshipped, imported or exported, carried or conveyed, contrary to any Regulation so made by the Governor in Council, and all goods or vehicles and all vessels under the value of four hundred dollars, with regard to which the requirements of any such Regulation have not been complied with, shall be forfeited, and if such vessel be of or over the value of four hundred dollars, the master thereof shall by such non-compliance incur a penalty of four hundred dollars; And any such forfeitures and penalties shall be recoverable and may be enforced in the same manner, before the same Court and tribunal as if incurred by the contravention of any direct provision of this Act.

Penalties and forfeitures for contravention of such regulations.

How recoverable.

127. All General Regulations made by the Governor in Council under this Act, shall have effect from and after the day on which the same have been published in the *Canada Gazette*, or from and after such later day as may be appointed for the purpose in such Regulations, and during such time as shall be therein expressed, or if no time be expressed for that purpose, then until the same are revoked or altered;—and all such regulations may be revoked, varied or altered by any subsequent regulation;—And a copy of the *Canada Gazette* containing any such Regulation shall be evidence of such Regulation to all intents and purposes whatsoever.

Mode of publication of regulations.

Revocation.

How regulations may be proved.

128. Any copy of an Order of the Governor in Council made in any special matter and not being a General Regulation, certified as a true copy of such Order by the Clerk of the Queen's Privy Council for Canada or his Deputy, shall be evidence of such Order to all intents and purposes whatsoever.

Certain copies of Orders in Council to be evidence

MISCELLANEOUS PROVISIONS.

129. In every case where the person required to take any oath under any Act or regulation relating to the customs, is one

Affirmation to be made in-

Digitized by Google

stead of an oath in certain cases, &c.

one of the persons entitled by law to take a solemn affirmation instead of an oath in civil cases, such person may instead of the oath hereby required make a solemn affirmation to the same effect; and every person before whom any oath is by any such Act or Regulation, required or allowed to be taken, or solemn affirmation to be made, shall have full power to administer the same; and the wilfully making any false statement in any such oath, shall be perjury, and the wilfully making any false statement in any such solemn affirmation, shall be a misdemeanor punishable as perjury.

Punishment for false statements.

Time of importation, &c., defined.

130. Whenever on the levying of any duty, or for any other purpose, it becomes necessary to determine the precise time of the importation or exportation of any goods, or of the arrival or departure of any vessel,—such importation, if made by sea, coastwise, or by inland navigation in any decked vessel, shall be deemed to have been completed from the time the vessel in which such goods were imported, came within the limits of the port at which they ought to be reported, and if made by land, or by inland navigation in any undecked vessel, then from the time such goods were brought within the limits of Canada;—And the exportation of any goods shall be deemed to have been commenced from the time of the legal shipment of such goods for exportation, after due entry outwards, in any decked vessel, or from the time the goods were carried beyond the limits of Canada, if the exportation be by land or in any undecked vessel;—And the time of the arrival of any vessel shall be deemed to be the time at which the report of such vessel was, is or ought to have been made, and the time of the departure of any vessel to be the time of the last clearance of such vessel on the voyage for which she departed.

And of exportation;

And of arrival and departure of vessels.

Duties overpaid not returnable after three years, though wrongly paid.

131. Although any duty of Customs has been overpaid, or although after any duty of Customs has been charged and paid, it appears or is judicially established that the same was charged under an erroneous construction of the aw, no such overcharge shall be returned after the expiration of three years from the date of such payment.

By whom bonds shall be taken to Her Majesty's use.

132. All bonds and securities, of what kind and nature soever, authorized to be taken by any Law relating to Customs, Trade or Navigation, shall be taken by the Collector or principal officer of the Customs at the place where the same are to be taken, and to and for the use and benefit of Her Majesty;—And such bonds shall be taken before the delivery of any goods, vessel, carriage or vehicle, horses or other cattle, of any kind or description whatsoever, and before the performance of any act or matter with regard to which the taking of any such bond or bonds is required.

To be given prior to the delivery, &c., of the goods.

Forms of papers to be di-

133. All bonds, documents and papers necessary for the transaction of any business at the respective Custom Houses

plac

Digitized by Google

places or ports of entry in Canada shall be in such form as the Minister of Customs shall from time to time direct and shall be printed or lithographed uniformly, and supplied by the proper officer to all Collectors or other officers in charge of any Custom House, and other officers of Customs at any port or place of entry in Canada, for the use of persons transacting Customs business thereat.

rected by Minister of Customs and kept at Custom Houses.

134. Certificates and copies of official papers, certified under the hand and seal of any of the principal officers of the customs, in the United Kingdom, or of any collector of colonial revenue in any of the British possessions in America or West Indies, or other the British possessions, or of any British Consul or Vice Consul in a foreign country, and certificates and copies of official papers made pursuant to this Act or any Act in force in Canada relating to the Customs or Revenue, shall be received as presumptive evidence in reference to any matter contained in this Act or any Act relating to the Customs, or on the trial of any suit in reference to any such matter.

Certain documents to be presumptive evidence.

135. Whenever any person makes any application to an officer of the Customs to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf the application is made, and in default of the production of such authority, may refuse to transact such business;—And any act or thing done or performed by such agent, shall be binding upon the person by or on behalf of whom the same is done or performed, to all intents and purposes, as fully as if the act or thing had been done or performed by the principal.

Person applying to transact business on behalf of another, to produce written authority.

Any thing done by such agent to be binding.

136. Any Attorney and Agent duly thereunto authorized by a written instrument, which he shall deliver to and leave with the Collector, may in his said quality validly make any Entry or execute any Bond or other Instrument required by this Act, and shall thereby bind his principal as effectually as if such principal had himself made such Entry or executed such Bond or other Instrument, and may take the oath hereby required of a Consignee or Agent, if he be cognizant of the facts therein averred;—And any Instrument appointing such Attorney and Agent shall be valid if in the form in the Schedule hereunto annexed, or in any form of words to the like effect.

Such agent may execute any bond or agreement, thereby binding his principal.

Instrument appointing such agent shall be valid if in form in schedule.

137. Any partner in any unincorporated company, association or copartnership of persons, or their Attorney and Agent authorized as aforesaid, may, under the name and style usually taken by such company, association or copartnership, make any Entry or execute any Bond or other Instrument required by this Act, without mentioning the name or names of any of the Members or of the other Members of the company or association or partnership, and such Entry, Bond or Instrument shall nevertheless

Any partner may execute any bond, &c., without mentioning the names of the other members, &c.

Digitized by Google

nevertheless bind them as fully and effectually, and shall have the same effect in all respects as if the name of every such Member or Partner had been therein mentioned and he had signed the same, and (if it be a Bond or other Instrument under Seal) as if he had thereunto affixed his Seal and had delivered the same as his act and deed; and the Seal thereunto affixed shall be held to be the Seal of each and every such Member or Partner as aforesaid; And the provisions of this Section shall apply to any Instrument by which any company, association or partnership of persons appoint an Attorney or Agent to act for them under the next preceding section; Provided always, that the person who under this section makes any Entry or executes any Bond or Instrument on behalf of any company, association or partnership, shall, under the name and style usually taken by them, write his own name with the word "by" or the words "by their Attorney," (*as the case may be*) thereunto prefixed.

Seals.

Proviso: form of signature.

Acts &c., repealed. Con. Stat. Can. c. 17. Caps. 12, 13, 14, 15, 16 of Rev. Stat. of Nova Scotia. Caps. 27, 28, 29 of Rev. Stat. New Brunswick: and any other enactment inconsistent with this act, &c.

138. Subject to the provisions hereinafter made, the seventeenth chapter of the Consolidated Statutes of the late Province of Canada, and the Acts of the Legislature of the said Province amending the said chapter—and the twelfth, thirteenth, fourteenth, fifteenth and sixteenth chapters of the Revised Statutes of the Province of Nova Scotia, (third series) and the Acts of the Legislature of that Province amending the said chapters or any of them,—and the twenty-seventh, twenty-eighth and twenty-ninth chapters of the Revised Statutes of the Province of New Brunswick, and the Acts of the Legislature of the said Province amending the said chapters or any of them,—and every enactment or provision in any other Act or law in force before the coming into force of this Act, inconsistent with this Act or making any provision for any matter provided for by this Act other than such as is hereby made, are hereby repealed, except in so far as the said Acts or enactments or any of them repeal any former Act or enactment, (which shall remain repealed) and except in so far as relates to any duty accrued, and bond given, any right acquired, or any penalty, forfeiture or liability incurred under the said Acts or enactments or any of them, or any offence committed against them or any of them, before the coming into force of this Act,—nor shall this repeal extend to any duty of customs imposed or any exemption or prohibition contained in any such Act, which shall, after the coming into force of this Act be levied, allowed and enforced under the provisions thereof, unless and until it be otherwise provided by Act of the Parliament of Canada.

Effect or repeal limited.

THINGS DONE UNDER REPEALED ACTS.

Certain Regulations to remain in force.

139. All Regulations and Orders made by the Governor of the late Province of Canada in Council, or by the Lieutenant Governor of either of the Provinces of Nova Scotia or New Brunswick, in Council, before this Act comes into force, under the

Digitized by Google

the authority of any Act relating to the Customs, shall remain in force in these provinces respectively and shall apply to the duties to be collected and things to be done under this Act, in so far as they are not inconsistent with it, unless or until revoked or altered by the Governor in Council, notwithstanding the repeal of any such Act as aforesaid.

140. Neither the repeal of any former Act or enactment relating to the Customs, nor any thing in this Act contained, shall render necessary any new appointment of the several officers employed in the collection or management of, or in any matter relating to the Customs, but such officers shall continue to act in their respective capacities under the provisions of this Act, and of the law, until removed, or permitted to resign, by competent authority,—nor shall any such repeal or any thing in this Act affect the amount of the salary or allowances attached to any office connected with the management or collection of the Duties of Customs;—and all bonds given by any such officers and their respective sureties for good conduct or otherwise, before this Act comes into force, shall remain in full force and effect; and the officers heretofore employed in the collection of Customs duties in New Brunswick, under the name of Treasurers or Deputy Treasurers, shall be called and be Collectors of Customs within the meaning of this Act and of any other Act of the Parliament of Canada relating to the Customs, without any new appointment or any other authority than this Act.

No new appointment of the officers, &c., to be necessary.

Salaries.

Bonds.

Treasurers and Deputies in N. B.

141. All goods warehoused before this Act comes into force, and which remain so warehoused shall, if taken out of the warehouse for consumption in Canada, be subject to the duties to which such goods would be subject if they were then imported into Canada, and not to any other; and all appointments of warehouses for the warehousing of goods made under the authority of any Act in force in the late Province of Canada, or in Nova Scotia or New Brunswick before this Act came into force, shall continue valid as if made under the authority of this Act; and all bonds given in respect of any goods warehoused or entered to be warehoused before the said time, shall continue in force for the purposes of this Act.

Goods warehoused.

Appointment of warehouses.

SCHEDULE.—FORMS.

DECLARATION OF THE OWNER, CONSIGNEE OR IMPORTER, WITH THE BILL OF ENTRY.

I, the undersigned, , hereby solemnly declare that the within Bill of Entry contains a true account of the goods, imported in the whereof is Master, (*or* by the Railway,) *or as the case may be* from , and whereof I (*or as the case may be*)—am (*or* is or are)

Digitized by Google

are) the owner (Importer *or* consignee) that the Invoice herewith produced is the true and only Invoice (*I, or as the case may be*) have (*or* has) received or expect or expects to receive of the said goods, and that the prices of the goods, as mentioned in the Invoice, exhibit the actual cost (*or* the fair market value) of the said goods at the time and place of exportation, and that no discounts for cash are made in the said invoice prices.

Signed at , on the day of , 18 , in presence of *

* To be signed in the presence of the Collector, or of the Attorney or Agent making the entry, or of a Justice of the Peace or a Consul.

OATH OR AFFIRMATION OF AN OWNER, CONSIGNEE OR IMPORTER OR HIS AGENT.

Dominion of Canada.
Port of

I, , do solemnly and truly swear (*or* affirm) that I (*or as the case may be*) am (*or* that the firm of of which I am a partner) is the owner (consignee or importer) of the goods mentioned in the Invoice now produced by me and hereunto annexed and signed by me, and that such Invoice is the true and only Invoice received by me (*or* us) or which I (*or* we) expect to receive of all the goods, imported in the , whereof is Master, from , for account of me (*or as the case may be*); that nothing has been on my part, nor to my knowledge on the part of any other person, done, concealed or suppressed, whereby *Her* Majesty the *Queen* may be defrauded of any part of the duty lawfully due on the said goods; and I do further solemnly and truly swear (*or* affirm) that the Invoice now produced by me exhibits to my personal knowledge the actual cost (*or* fair market value) of the said goods, at the time when the same were thence exported to Canada, in the markets in without any deduction or discount for cash or otherwise howsoever: So help me God.

Sworn (*or* affirmed) before me, this day of , 18.

Collector,
(*or as the case may be.*)

OATH

Digitized by Google

OATH OR AFFIRMATION OF AN AGENT OF THE OWNER, CONSIGNEE OR IMPORTER.

Dominion of Canada,
Port of

I, , do solemnly and truly swear (*or* affirm) that I am the authorized agent of (*as the case may be*) and that I have the means of knowing and do know that the Invoice now presented by me to the Collector of Customs for the Port of , is the true and only Invoice by him (*or* them) received of all the goods, imported in the , whereof is Master, from , for his (*or* their) account; that nothing has been on my part, nor to my knowledge, on the part of any other person, done, concealed or suppressed, whereby *Her* Majesty the *Queen* may be defrauded of any part of the duty lawfully due on the said goods; and I do further solemnly and truly swear (*or* affirm) that, to the best of my knowledge and belief, the said is (*or* are) the owner (*or* owners) of the goods, mentioned in the said Bill of Entry hereunto annexed, as therein respectively stated and that the Invoice now produced by me exhibits the actual cost (*or* fair market value) of the said goods at the time when the same were thence exported to Canada, in the markets in of the said goods, without any deduction or discount for cash or otherwise howsoever: So help me God.

Sworn (*or* affirmed) before me, this day of , 18 .

Collector,
(*or as the case may be.*)

OATH OR AFFIRMATION OF AN OWNER, CONSIGNEE, IMPORTER OR AGENT, ON ENTERING MERCHANDIZE, WITHOUT INVOICE.

Dominion of Canada,
Port of

I, , do solemnly and truly swear (*or* affirm) that the Bill of Entry now delivered by me to the Collector of Customs for the Port of , contains a just and true Account of all the goods, imported for me or on my account, or on account of for whom I am authorized to enter the same, in the whereof is Master, from ; that the Bill of Lading now produced by me is the true, genuine, and only Bill of Lading by me received of the said goods; and that I have not received, and do not know of any Invoice, or other account whatever having been received of the said goods; I do further swear (*or* affirm) that if I hereafter

Digitized by Google

hereafter discover any other or greater quantity of goods, than is contained in the entry aforesaid, or receive or obtain a knowledge of any Invoice of the whole or any part thereof, I will immediately report the same to the Collector of this Port; I also swear (*or* affirm) that nothing has been concealed or suppressed in the entry aforesaid whereby to avoid the just payment of the duties imposed by the laws of the Dominion of Canada; and that all matters are justly and truly expressed therein to the best of my knowledge and belief: So help me God.

Sworn (*or* affirmed) before me, this day of , 18 .

Collector,
(*or as the case may be.*)

The wording of any of these Oaths or Affirmations may be changed to suit the circumstances of the case, and the provisions of the law; and the Oath or Affirmation will be sufficient, provided the requisite facts are distinctly stated and sworn to or affirmed.

All the foregoing forms in this Schedule may be altered, or new forms substituted under Section 39.

APPOINTMENT OF AN ATTORNEY OR AGENT.

Dominion of Canada.

Know all men by these presents, that I *or* we (*A. B. & Co.*) have appointed and do hereby appoint *C. D.* of (*residence, profession, &c.*) to be my (*or* our) true and lawful Attorney and Agent, for me (*or* us) and in my (*or* our) name to transact all business which I (*or* we) may have with the Collector at the Port of , or relating to the Department of the Customs at the said Port, and to execute, sign, seal and deliver for me (*or* us) and in my (*or* our) name all Bonds, Entries and other Instruments in writing relating to any such Business as aforesaid, hereby ratifying and confirming all that my (*or* our) said Attorney and Agent shall do in the behalf aforesaid.

In witness whereof, I (*or* we) have signed these presents, and sealed and delivered the same as my (*or* our) act and deed, at , in the said Dominion, this day of , one thousand eight hundred and

A. B. & Co. [L. S.]
By
one of the partners in the said firm.
(*or as the case may be.*)

In presence of E. F.
and G. H.

OATH

Digitized by Google

OATH OF THE MASTER OF A VESSEL REPORTED INWARDS.

I, master of the ship or vessel called the of tons measurement or thereabouts, last cleared from the port of , do solemnly swear that since the said vessel was so cleared, I have not broken bulk, nor has any part of her cargo been discharged or landed, or moved from the said vessel; and I do further swear that the manifest now exhibited by me and hereto annexed doth, to the best of my knowledge and belief, contain a full, true, and correct account of all the goods, wares, and merchandize laden on board such vessel at the said port of , or at any other port or place during her present voyage. So help me God.

Sworn to at this day of 186 , before me,
Collector. } *Master.*

CAP. VII.

An Act imposing Duties of Customs, with the Tariff of Duties payable under it.

[*Assented to 21st December*, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: Preamble.

1. In lieu and instead of all other duties of Customs upon goods imported into Canada, there shall be raised, levied, collected and paid upon the goods, enumerated in Schedules A and B, to this Act, imported into Canada or taken out of warehouse for consumption therein, the several duties of Customs respectively set forth and described in the said Schedules A and B, the duty of Fifteen *per centum ad valorem* being payable upon all goods not charged with any other duty and not declared free of duty. New duties of Customs in Schedules A and B substituted for those heretofore in force.

2. The goods enumerated in Schedules C and D to this Act may, subject to the provisions and conditions therein mentioned, be imported into Canada or taken out of Warehouse for consumption therein without payment of any duties of Customs thereon. Free goods.

3. Any other articles than those mentioned in Schedule D, being of the growth and produce of the British North American Provinces, may be specially exempted from Customs duty by order of the Governor in Council. Other articles from B. N. A. Provinces may be declared free.

4. Any or all of the articles mentioned in Schedule D, may be admitted into Canada from the United States of America, free of duty, upon proclamation by the Governor in Council, whenever satisfactory arrangements shall be entered into with the United States of America, for the importation of similar articles from Canada into that country free of duty. And certain articles from U. S. in case of reciprocity.

Digitized by Google

How goods claimed to be exempt from duty must be described for entry.

Forfeiture for misdescription, &c.

5. Goods claimed to be exempt from duty under this Act shall, in the entry thereof, be described and set forth in the words by which they are described to be free in Schedule C or D, to this Act, and goods not answering such description shall be seized and forfeited, or if the Collector, under the circumstances, deems it expedient, he may detain the goods and report the case for the action of the Minister of Customs who may direct their seizure or release as he may deem expedient; and where goods in any case whatever are seized or detained as forfeited for any breach of the Customs Laws, it shall be lawful for the Minister of Customs to order the release of the same, on the payment of such penalty as he may impose, provided the owner of the goods give in writing his assent thereto.

Regulations by Governor in Council for preventing fraud.

6. The importation of goods exempt from duty under this Act and all matters relating thereto, shall be subject to such regulations as the Governor in Council may make for the purpose of preventing fraud or abuse under pretext of such exemption, nor shall such exemption prevent the forfeiture of such goods for any breach of the Customs Laws, or of any regulations lawfully made under them.

Prohibited goods.

7. The Goods enumerated in Schedule E, shall not be imported into this Province under the penalty therein mentioned, and if imported shall be forfeited and forthwith destroyed.

Importation of arms, &c.

8. Fire-arms and munitions of war, shall not be imported except from the United Kingdom of Great Britain and Ireland, unless upon application to, and permission given by, the Minister of Customs.

What packages shall be free, and what not free.

9. Packages of every description in which goods are usually imported, and cases covering casks of Wine or Brandy, in wood, and cases containing bottled Wine or bottled Spirits or other liquors, shall be free,—except only Bottles, Jars, demi-johns, Brandy-Casks, Barrels, or other packages in which Spirituous Liquors, Wines and Malt Liquors are contained.

Value of packages when only to be deducted from invoice value of goods.

10. No deduction from the value of goods contained in any invoice shall be allowed on account of the assumed value of a package or packages, when no charge for such package or packages has been made in such invoice; and where such charge is made, it shall be the duty of the Customs' Officer to see that the charge is fair and reasonable and represents no more than the original cost thereof.

No deduction allowed for packing, &c.

11. No deduction from the value of goods in any invoice shall be made on account of charges for packing, or for straw, twine, cord, paper, cording, corking, wiring, cutting, or for any expense incurred or said to have been incurred in the preparation and packing of goods for shipment.

Nor for commission.

12. No Commission charged in any invoice, for the purchase of goods or claimed to have been paid for such purchase, shall be allowed in abatement of the value of the goods for duty.

13.

Digitized by Google

13. No discount for cash shall in any case be allowed, nor shall goods be allowed to entry at cash values, except where it is satisfactorily shewn to the Collector that such goods can be purchased only for cash, and then it shall form a part of the affidavit of the importer that the value of such goods was paid at the time of purchase.

No discount for cash, except only in certain cases.

14. Fish, salted or fresh, or other articles alleged to be the product of Canada, or of Newfoundland or Prince Edward Island, imported from the United States, shall be liable to the duty of Customs imposed on goods of the class to which they respectively belong, unless accompanied by a copy of outward report stating quantity, and describing the packages, duly certified by a Collector of Her Majesty's Customs.

As to fish, &c., alleged to be the product of Canada, or B. N. A. Provinces, &c.

15. The certificate of growth of wine referred to in Schedule A, to this Act, must be from the place of production of such wine and be attested under the hand and seal of some public officer.

Certificate of growth of wine.

16. Drawback, under regulations to be prescribed by the Governor in Council, shall be allowed on goods of the value at the least of one hundred dollars, on the first entry on which duties of Customs have been paid,—when exported direct to Newfoundland, or to Prince Edward's Island.

Draw-back on duty-paid goods exported to Newfoundland or P. E. Island.

17. No refund of duty shall be allowed after the lapse of fourteen days from the time of entry, for any alleged misdescription of goods by the importer; and should any error of the kind be discovered by the importer while unpacking his goods, he shall immediately and without further interference with the goods, report the facts to the Collector in order that the same may be verified.

No refund of duties, except in certain cases only.

18. The foregoing provisions of this Act shall be construed as one Act with the Act of this session, intituled: *An Act respecting the Customs*, in so far as consistent with this Act; and all words and expressions used in this Act, shall have the meaning assigned to them in the said Act, and all the provisions of the said Act, or of the regulations made or to be made under it, or continued in force by it, shall apply to the duties imposed by this Act, except in so far as they may be inconsistent with it.

How this Act shall be construed.

19. So much of any Act of the Legislature of the late Province of Canada, or of either of the Provinces of Nova Scotia or New Brunswick, as imposes any duty of Customs, or makes any provision in any matter provided for by this Act, or is inconsistent with this Act, is hereby repealed.

Inconsistent enactments repealed.

20. The duties of Customs hereby imposed shall be held to have come into force on the Thirteenth day of December, in the

Commencement of this Act.

Digitized by Google

the year of Our Lord one thousand eight hundred and sixty-seven, and to have been and to be payable on goods imported or taken out of warehouse for consumption upon or after the said day, in lieu and instead of the duties of customs theretofore imposed or payable; and the export duty on timber exported from the Province of Ontario or of Quebec, shall be held to have been repealed from the said day.

Export duty on timber repealed.

SCHEDULE A.

Goods paying specific duties.

		Duties. $ cts.
Spirits and strong waters, viz:		
Brandy, Gin, Rum, Whisky, Spirits of Wine, Alcohol, Bitters containing Spirit, Vermouth and other Spirituous Liquors of whatever strength, not otherwise specified, on every gallon, and so in proportion for any greater strength than the strength of Proof by Sykes' Hydrometer, and for every less quantity than a gallon.....		0 80
Cordials.....	Per Gallon	1 20
Perfumed spirits.....	"	1 20
Tinctures.....	"	0 30
Ale, Beer and Porter in casks.....	"	0 05
Do do do in bottles, (4 Quart or 8 Pint to be held to contain a Gallon).....	"	0 07
Crude Petroleum.....	"	0 06
Oils :—viz.		
Coal and Kerosene, distilled, purified and refined.....	Per Gallon	0 10
Naptha.....	"	0 15
Benzole.....	"	0 15
Refined Petroleum.....	"	0 15
Products of Petroleum, coal, shale and lignite, not otherwise specified.....	"	0 10
Sugar, &c. :—		
Candy—brown or white, refined sugar or sugar rendered by any process equal in quality thereto and manufactures of refined sugar, including succades and confectionery,.....	Per 100 lbs	3 00
White clayed sugar, or sugar rendered by any process equal in quality to white clayed, not being refined nor equal in quality to refined.....	"	2 60
Yellow Muscovado and brown clayed sugar, or sugar rendered by any process equal in quality to yellow muscovado or brown clayed, and not equal to white clayed.....	"	2 25

Brown

Digitized by Google

		$	cts.
Brown Muscovado sugar, or sugar rendered by any process equal in quality to brown Muscovado and not equal to yellow muscovado or brown clayed.....	Per 100 lbs.	1	90
Any other sugar not equal in quality to brown Muscovado.....	"	1	68
Cane juice, Syrup of Sugar or of Sugar Cane, Syrup of Molasses or of Sorghum, Melado, concentrated Melado or concentrated Molasses.....	"	1	37
Molasses, if used for refining purposes, or for the manufacture of sugar.....	"	0	73
Molasses, if not so used.....	"	0	55
Coffee, green.....	Per lb.	0	03
Do roasted or ground.....	"	0	04
Chicory or other root or vegetable used as Coffee, raw or green.....	"	0	03
Chicory, kiln-dried, roasted or ground.....	"	0	04
Common Soap.....	Per 100 lbs.	1	00
Starch.....	"	2	50
Cigars :—Value not over $10 per Mille.....	Per Mille.	3	00
Do over $10 and not over $20.....	"	4	00
Do over $20 and not over $40.....	"	5	00
Do over $40.....	"	6	00
Malt.....	Per Bushel	0	40
Butter.....	Per lb.	0	04
Cheese.....	"	0	03
Lard and Tallow.....	"	0	01
Fish, salted or smoked.....	"	0	01
Flour of Wheat or Rye.....	Per Brl.	0	25
Flour and Meal of all other kinds.....	" "	0	25
Indian Corn and Grain of all kinds, except Wheat....	" Bush.	0	10
Meats, fresh, salted or smoked.....	" lb.	0	01
Wines of all kinds, except sparkling wines, including Ginger, Orange, Lemon, Gooseberry, Strawberry, Raspberry, Elder and Currant Wines, containing not over 26 degrees of proof spirits by Sykes' Hydrometer, in wood.....	Per gallon	0	10
Do do containing over 26 degrees and not more than 42 degrees of proof spirits by Sykes' Hydrometer, in wood.....	"	0	25
Do do containing not more than 42 degrees of proof spirits by Sykes' Hydrometer, in bottles per doz.	Per doz. quarts	1	50
	pints,	0	75
And an additional duty of 3 cents per gallon for every degree of strength beyond 42 degrees, whether in wood or bottles ; 4 quart or 8 pint to be held to contain a gallon.			
Wine—Sparkling, of all kinds in bottles, when accompanied by a certificate of growth, in quarts.....	Per doz.	3	00
Do do do in pints.....	"	1	50

And

		$ cts.
And when not accompanied by a certificate of growth an additional duty of,	in quarts.....	Per doz. 1 00
"	in pints	" 0 50

Bottles commonly called quart bottles to be held to contain a quart, and bottles commonly called pint bottles to be held to contain a pint.

SCHEDULE B.

Goods paying twenty-five per centum ad valorem :

Cassia, ground,
Cinnamon, "
Ginger, "
Mace,
Nutmegs,
Pepper, ground,
Perfumery, not otherwise specified,
Pimento, ground,
Playing cards,
Proprietary Medicines, commonly called Patent Medicines, or any medicine or preparation of which the recipe is kept secret, or the ingredients whereof are kept secret, recommended by advertisement, bill or label for the relief or cure of any disorder or ailment.

Goods Paying Ten per centum ad valorem :—

Sole and Upper Leather.

Goods paying Ad valorem and specific duties :

Tea, black, fifteen per centum *ad valorem*, and a specific duty of three cents and *one* half of a cent per lb.
Tea, Green, including Japan, fifteen per centum, *ad valorem*, and a specific duty of seven cents per lb.
Tobacco manufactured, except Cigars, five per centum, *ad valorem*, and a specific duty of fifteen cents per lb.

Non enumerated.

All goods not enumerated in any of the Schedules to this Act, as charged with any other duty, nor declared exempt from duty, shall be charged with a duty of fifteen per centum *ad valorem*.

SCHEDULE C.

FREE GOODS.

Arts and science :—

Anatomical preparations,
Botany, specimens of,

Cabinets

Digitized by Google

Cabinets of Antiquities,
" Coins,
" Gems,
" Medals,
Drawings, not in oil,
Gems,
Medals,
Mineralogy, Specimens of,
Models,
Natural History, specimens of,
Sculpture, specimens of,

WORKS OF ART, viz :

Busts—Natural size, not being casts nor produced by any mere mechanical process.
Casts—As models for use of schools of design.
Paintings—In oil, by artists of well known merit, or copies of the old masters by such artists.
Statues—Of bronze, marble or alabaster, natural size.

DRUGS, CHEMICALS, DYE STUFFS, OILS AND COLORS NOT INCLUDING CHEMICAL PREPARATIONS OR CHEMICAL COMPOUNDS, FOR DYEING OR OTHERWISE, NOT ELSEWHERE SPECIFIED.

Acids of every description, except acetic and vinegar,
Alum,
Antimony,
Argol,
Bark, when chiefly used in dyeing,
Barilla,
Berries, when chiefly used in dyeing,
Borax,
Bleaching powders,
Brimstone in roll or flour.

Colors and other articles, when imported by room-paper makers and stainers, to be used in their trade only, viz:

Bichromate of potash,
Blue Black,
British gum,
Chinese Blue,
Lakes, scarlet and morone, in pulp,
Paris and permanent Greens,
Satin and fine washed White,
Sugar of lead,
Ultra Marine,
Umber, raw.

Cream of tartar in crystals,
Drugs, when chiefly used in dyeing,
Essential Oils,
Indigo,

Kelp,

Digitized by Google

Kelp,
Kryolite,
Medicines for Hospitals,
Metallic Oxides, dry, ground or unground, washed or unwashed, not calcined,
Nitre,
Nuts, when chiefly used in dyeing,
Ochres, dry, ground or unground, washed or unwashed, not calcined,
Oils, cocoa nut, pine and palm in their natural state,
Phosphorus,
Red Lead, dry,
Roots, Medicinal, in their natural state.
Sal ammoniac,
Sal Soda,
Saltpetre,
Soda ash,
Soda caustic,
Soda, nitrate of
Soda, silicate of
Sulphur in roll or flour,
Vitriol, blue,
Vegetables, when chiefly used for dying,
White lead, dry,
Whiting or whitening,
Woods, when chiefly used in dying,
Zinc, white, dry.

Manufactures and Products of Manufactures:

Anchors.
Ashes, pot, pearl and soda,
Bread and biscuit from Great Britain and the B. N. A. Provinces,
Bolting, cloth,
Books—Periodicals and Pamphlets, Printed, not being foreign reprints of British copyright works, nor blank account books, nor copy books, nor books to be written or drawn upon, nor reprints of books printed in Canada, nor printed sheet Music.
Book binders' tools and implements,
Brim moulds for gold beaters,
Burrstones,
Candle wick, cotton,
Cement, Marine unground,
Cement, Hydraulic do
Church Bells,
Clothing—donations of for charitable institutions,
Communion Plate,
Cocoa Paste, from Great Britain and the B. N. A. Provinces,
Coin and Bullion, except United States silver coin,
Cotton Netting for India Rubber Shoes
Cotton Waste,
Cotton Wool,
Drain tiles,
Duck for belting and hose,

Emery

Digitized by Google

Emery paper and emery cloth,
Electrotype Blocks, for printing purposes.
Farming implements and utensils when imported by Agricultural Societies for the encouragement of Agriculture.
Felt for Hats and Boots.
Felt hat bodies.
Fire Brick.
Fire Engines—Steam—when imported by the Municipal Corporations of Cities, Towns and Villages, for the use of such Municipalities.
Fish hooks, nets and seines, lines and twines,
Flax Waste.
Glass paper and Glass cloth.
Gold Beaters Skin.
Gold Leaf,
Hoop skirt manufacture, the following articles for, Crinoline thread for covering Crinoline wire, clasps of tin and brass, slides, spangles and slotted tapes, and flat or round wire uncovered,
Junk,
Linen Machine Thread,
Lithographic Stones,
Lumber, plank and sawed, of mahogany, rosewood, walnut, cherry and chestnut,
Machine Silk Twist,
Machinery when used in the original construction of Mills or Factories, not to include Steam Engines, Boilers, Water Wheels, or Turbines,
Nails,—Composition,
Nails,—Sheathing,
Oakum,
Oil Cake,
Philosophical instruments and apparatus, including globes, when imported by, and for the use of Colleges and Schools, Scientific or Literary Societies,
Platers' Leaf,
Printing Ink,
Printing Presses, except portable hand printing presses,
Prunella,
Rags,
Sand paper and sand Cloth.

Ships' Binnacle Lamps,
" Blocks and patent bushes for blocks,
" Bunting,
" Cables, iron chain, over three quarters of an inch, shackled or swiveled, or not.
" Compasses,
" Dead Eyes,
" Dead Lights,
" Deck Plugs,
" Knees, Iron,
" Masts or parts of, Iron.
" Pumps and pump-gear,
" Riders, Iron,
" Shackles,

Ships'

Digitized by Google

Ships' Sheaves,
" Signal Lamps,
" Steering apparatus,
" Travelling Trucks
" Wedges,
" Wire-rigging,
And the following articles when used for ships or vessels, only, viz:
Cables, hemp and grass,
Cordage,
Sail cloth or canvas from No. 1 to No. 6,
Varnish, black, and bright.

Silver Leaf,
Spikes, composition,
Straw Plaits, Tuscan and grass, Fancy.
Stereotype Blocks for printing purposes,
Treenails,
Twists, silk, for hats, boots and shoes,
Veneering of wood or ivory,
Weaving or tram silk, for making elastic webbing,
" " cotton " "
Wire cloth of brass and copper,
Woollen netting for India rubber shoes.

Metals—

Brass,—Bar, Rod, Sheet and Scrap,
Cranks for Steamboats, forged in the rough,
Do and Mills, do do
Copper, in Pig, Bars, Rods, Bolts and Sheets, and Sheathing.
Iron of the descriptions following:—
Bar, Rod, Hoop, Sheet, Scrap, Galvanized or Pig,
Bars, puddled,
Bolts and Spikes, galvanized,
Boiler Plate,
Canada Plates and tinned Plates.
Nail and Spike Rod, round, square and flat,
Rolled Plate,
Wire,

Locomotive Engine Frames, Axles, Cranks, Hoop Iron or Steel for tires of wheels, bent and welded,
" Crank Axles, Piston Rods, Guide and Slide Bars, Crank Pins, Connecting Rods.
Lead in Sheet or Pig.
Litharge.
Railroad Bars, wrought iron Chairs, wrought iron Fish Plates, and Car Axles.
Shafts for Mills and Steamboats, in the rough.
Spelter, in blocks, sheets or pig.
Steel, wrought or cast in bars and rods.
" plates cut to any form, but not moulded.
Tin, in bar, blocks, pig or granulated.

Tubes

Digitized by Google

Tubes and piping—of brass, copper or iron, drawn.
Type Metal, in blocks or pigs.
Wire, of brass, copper or iron, round or flat.
Yellow Metal, in bolts, bars, and for sheathing.
Zinc in sheets and blocks and pigs.

NATURAL PRODUCTS,

Bristles,
Broom Corn,
Bulbs,
Caoutchouc, unmanufactured,
Clays,
Coal and Coke,
Cork wood,
Cork wood bark,
Diamonds, unset,
Earths,
Eggs,
Emery,
Fibre, Mexican,
Fibre, vegetable, for manufacturing purposes,
Fibrilla,
Flax, undressed,
Fire Clay,
Fire Wood,
Fish, fresh, not to include Oysters or Lobsters in Tins or Kegs.
Furs, undressed,
Gravels,
Grease and Grease Scrap,
Gutta Percha, unmanufactured,
Gypsum, not ground nor calcined,
Hair, Human, Goat, Angola, Thibet, Horse, Hog and Mohair, unmanufactured,
Hay,
Hemp, undressed,
Hides,
Hops,
Horns,

India Rubber, unmanufactured,
Lemons, Oranges and Citrons or the rind of such when imported in brine for the purpose of being candied,
Manilla Grass,
Manures,
Marble in blocks unwrought, or sawn on two sides only; and slabs from such blocks, having at least two edges unwrought,
Moss for Upholstery purposes,
Ores of metals of all kinds,
Osiers,
Pelts,
Pipe clay,
Pitch,

Plants,

Digitized by Google

Plants,
Plaster of Paris not ground nor calcined,
Precious Stones, unset,
Ratan for chair makers,
Rice,
Roots,
Rosin,
Salt,
Sand,
Sea Grass,
Seeds for agricultural, horticultural or manufacturing purposes only, and not to include Cereals.
Shrubs,
Skins undressed,
Slate,
Stone, unwrought,
Tails, undressed,
Tanner's Bark,
Tampico white and black,
Tar,
Teasels,
Tobacco unmanufactured,
Tow undressed,
Trees,
Turpentine, other than spirits of
Vegetables, culinary,
Vegetable fibres,
Whale Oil, in the casks from on Ship-board and in the condition in which it was first landed,
Wheat,
Willow for basket makers,
Wood of all kinds, wholly unmanufactured,
Wool.

SPECIAL EXEMPTIONS FROM DUTY :—

Apparel, wearing of British Subjects dying abroad but domiciled in Canada.
Articles by and for the use of the Governor General.
" for the public uses of the Dominion.
" " use of Foreign Consuls.
Arms and clothing for Indian Nations.
Army and Navy, for use of,—
Arms,
Bagatelle Tables,
Billiard Tables,
Clothing,
Do. plain for Officers,
Musical Instruments for Bands,
Stores.
" Canteens, under regulations by Order in Council,—
" Coffee,
" Sugar,

Army

Digitized by Google

Army and Navy, for use of,—(*Continued.*)

" Tea.
" Officers' Mess, under regulations by Order in Council,—
China ware,
Cigars,
Glass ware,
Malt Liquors,
Plated ware,
Silver ware,
Spirits,
Table Linen,
Wine.

Settlers' Effects of every description, in actual use, not being merchandise, brought by persons making oath that they intend becoming permanent settlers within the Dominion.

UNDER REGULATIONS AND RESTRICTIONS TO BE PRESCRIBED BY THE MINISTER OF CUSTOMS.

Carriages of travellers and carriages laden with merchandise and not to include circus troops, nor hawkers.

Locomotives and railway passenger, baggage and freight cars, running upon any line of road crossing the frontier, so long as Canadian Locomotives and cars are admitted free under similar circumstances in the United States,

Menageries, horses, cattle, carriages and harnesses of.

SCHEDULE D.

The following goods when the growth and produce of any of the British North American Provinces, may be imported free of duty, viz:

Grain, Flour and Breadstuffs, of all kinds.
Animals of all kinds.
Fresh, smoked and salted meats.
Seeds.
Green and dried fruits.
Fish of all kinds.
Products of fish and of all other creatures living in water.
Poultry.
Butter.
Cheese.
Lard.
Tallow.
Timber and lumber of all kinds, round, hewed, sawed, but not otherwise manufactured in whole or in part.
Fish oil,
Gypsum, ground or unground.

SCHEDULE

Digitized by Google

SCHEDULE E.

The following articles shall be prohibited to be imported under a penalty of two hundred dollars together with the forfeiture of the parcel or package of goods in which the same may be found, viz :-

Books, Drawings, Paintings and Prints of an immoral or indecent character,

Coin, base or counterfeit.

CAP. VIII.

An Act respecting the Inland Revenue.

[*Assented to 21st December*, 1867.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Repealing clause.

Canada. 27-28 V. c. 3.

29 V. c. 3.

29-30 V. c. 7.

Nova Scotia R. S. cap. 9.

30 V. c. 14.

New Brunswick 23 V. c. 20.

1. The Act of the Legislature of the late Province of Canada, passed in the session held in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, intituled : *An Act to amend and consolidate the Acts respecting duties of Excise, and to impose certain new duties*,—and the Act of the said Legislature passed in the twenty-ninth year of Her Majesty's Reign, intituled : *An Act to amend the Act respecting duties of Excise*,—and the Act of the said Legislature passed in the session held in the twenty-ninth and thirtieth years of Her Majesty's Reign, intituled : *An Act to amend the Acts respecting duties of Excise, and to alter the duty thereby imposed on spirits*,—and the ninth chapter of the Revised Statutes of Nova Scotia (third series), intituled : *Of Excise duties*,—and so much of the Act of the Legislature of the Province of Nova Scotia, passed in the thirtieth year of Her Majesty's Reign, and intituled : *An Act relating to the refining of Sugar and the manufacturing of Tobacco*,—as relates to the manufacturing of Tobacco,—and the Act of the Legislature of the Province of New Brunswick, passed in the twenty-third year of Her Majesty's Reign, intituled : *An Act relating to Distilleries*,—and so much of any other Act or law as may be inconsistent with this Act, or makes any provision for any matter provided for by this Act, are and is hereby repealed,—except that such repeal shall not affect the repeal of any former Act or provision of Law, any liability incurred, any duty accrued, any bond or security given, any action, suit or proceeding pending, any penalty, forfeiture or punishment incurred for any offence committed, any appointment, order in Council, regulation or order made or given and not inconsistent with this Act, or anything lawfully done before this Act comes into force,—with respect to all which, and to any transaction, matter or thing having occurred before that time, the said repeal shall not apply ; and this

Exceptions from repeal.

Digitized by Google

this Act shall as respects the Provinces of Ontario and Quebec, be construed as an amendment and consolidation of the Acts of the Legislature of the late Province of Canada hereby repealed, and not as a new law, in so far as its provisions are not inconsistent with those of the said repealed Acts, nor shall any duty hereby imposed be held to be a new duty, if it is the same in amount as that heretofore payable. Mode of construing this Act.

INTERPRETATION AND DEFINITION OF TERMS.

2. The following terms and expressions wherever used in this Act, unless it be otherwise specially provided or there be something in the context repugnant to or inconsistent with such construction, shall be construed and interpreted as hereinafter mentioned, that is to say : Interpretation of certain words and expressions.

" *Still* " means and includes any distilling apparatus whatever for the distilling or making of spirits ; Still.

" *Spirit Receiver* " means the vessel or vessels into which the spirit is conveyed as hereinafter provided from the tail of the worm for measurement, and in which the quantity and strength upon which the duty is payable, is ascertained and determined by the Officer of Excise ; Spirit Receiver.

" *Rectifier* " means and includes any pipe, vessel or still into which the spirit is conveyed after leaving the spirit receiver, for the purpose of rectification, by redistillation, filtration or by any other process ; Rectifier.

" *Proof Spirits* " or " *Spirits of the strength of Proof*," mean any spirit having the strength of proof by Sykes' Hydrometer ; Proof Spirits.

A " *Distillery* " means and includes any place or premises,— Distillery.

Where any process of fermentation for the production of wash is carried on, or

Where any wash is kept or produced for the purpose of distillation, or

Where any mash-tub, fermenting-tun, worm or still for the distillation of spirits is set up or used, or

Where any process of distillation whatever of spirits is carried on, or

Where any process of rectification of spirits either by redistillation, filtration or other process is carried on, or

Where

Digitized by Google

Where any spirits are manufactured or produced from any substance whatever, by any process whatever :

And every office, workshop, warehouse, granary, fermenting-room, mash-house, still-room, rectifying-house, vault, cellar, shed, yard or other place owned or occupied by, or on behalf of or for the use of any Distiller, or wherein any part of his business as such is transacted or where any grain, matter, material or apparatus suitable for or adapted to the production of spirits, or which is or is to be used in the production or rectification of spirits is kept or stored, or where any of the products of the distillery are kept or stored, or where any process of manufacture is carried on, shall be held to be included in and to form part of the distillery to which they are attached or are appurtenant;

Distiller. " *Distiller* " means and includes any person who conducts, works, occupies or carries on any Distillery, or who rectifies any spirits by any process whatsoever, either by himself or his agent ; and every person making or keeping beer or wash prepared or fit for distilling, or low-wines or faints, or having in his possession or use a Still or Rectifying apparatus, shall be deemed to be a distiller and liable to the several duties, obligations, penalties and forfeitures imposed by law on distillers;

Beer. " *Beer* " means and includes Beer, Ale, Porter, Lager Beer and all other Malt Liquor ;

Brewery. " *Brewery* " means and includes any place or premises where any Beer or Malt Liquor, or Beverage in imitation of Malt Liquor, is manufactured; and all Offices, Granaries, Mash-rooms, Cooling-rooms, Vaults, Cellars and Store-rooms connected therewith or in which any material to be used in the manufacture of Beer or Malt Liquor is kept or stored, or where any process of manufacture is carried on, or where any apparatus connected with such manufacture is kept or used, or where any of the products of Brewing or Fermentation are stored or kept, shall be held to be included in and to form part of the Brewery, to which they are attached or are appurtenant;

Brewer. " *Brewer* " means and includes any person who occupies, carries on, works or conducts any Brewery either by himself or his agent ;

Malt. " *Malt* " means and includes all preparations of grain or leguminous seeds that have been steeped in water, allowed to germinate and the germination checked by drying, or which is to be used for the production of Beer, or that may be malted for the purpose of distillation;

" *Malt-house* "

Digitized by Google

"*Malt-House*" means and includes any place or premises where any malt is manufactured, made or produced,—and all offices, granaries, malt-houses, kilns, malt-warehouses and store rooms connected therewith, or in which any grain, leguminous seeds or material to be used in the manufacture of malt are kept or stored, or where any process of such manufacture is carried on, or where any apparatus or utensils connected with or used in such manufacture are kept or used, or where any of the products of malting are stored or kept, shall be held to be included in and to form part of the malt-house to which they are attached or are appurtenant; Malt-house.

"*Maltster*" means and includes any person who occupies, carries on, works or conducts any malt-house either by himself or his agent; Malster.

"*Cistern*" means and includes any vessel, vat, or other apparatus or utensil wherein any grain or leguminous seed is steeped or wetted during any of the processes of converting it into malt; Cistern.

"*Couch-Frame*" means and includes any place or compartment into which the grain is conveyed after being removed from the cistern; Couch frame.

"*Malt-Floor*" means and includes all those floors in the malthouse whereon the grain is placed during the next process after its removal from the couch-frame; Malt-floor.

"*Kiln*" means and includes all heated floors or apparatus wherein or whereon grain is dried or roasted in the next process after its removal from the malt-floor; Kiln.

"*Raw Tobacco*" means unmanufactured tobacco, or the leaves and stems of the plant before it has passed through any process of Manufacture; Raw Tobacco.

"*Tobacco Manufactory*" means and includes any place or premises where Tobacco is manufactured or worked up; and every Work-shop, Office, Store-room, Warehouse, Shop, Shed, Yard or other place where any of the raw material is or is to be stored, or where any process connected with the manufacture or preparation of Tobacco is, or is intended to be carried on, or where any of the products of the manufacture are, or are intended to be stored, shall be held to be included in and to form part of the Tobacco Manufactory to which they are attached or are appurtenant; Tobacco manufactory.

"*Tobacco manufacturer*" means and includes any one who by himself or his agent carries on any business or process of manufacturing or working up, or in any way preparing raw tobacco for smoking, chewing, for snuff or for any other purpose; Tobacco manufacturer.

Digitized by Google

purpose ; and the manufacturing or preparing of Cigars shall be a manufacturing of Tobacco within the meaning of this Act;

Bonded manufacturer.

"*Bonded Manufacturer*" means and includes any person who by himself or his agent carries on the manufacture of any article or compound wherein goods liable to duties of Customs or Excise are used before the duties to which they are liable are paid ;

Bonded manufactory.

"*Bonded Manufactory*" means and includes any place or premises where any article or compound is manufactured or made in the compounding or manufacturing whereof goods liable to duties of Customs or Excise are used before the duties to which they are liable are paid ; and every place where any such goods are warehoused, stored or kept shall be held to form a part of the bonded manufactory to which it is attached or appurtenant;

Stamp.

"*Stamp*" means any distinctive mark, label or seal, impressed upon or affixed to any goods, material, merchandize, or apparatus, subject to the provisions of this Act, or of any other Act passed or to be passed respecting Excise, or of any order in Council, or departmental regulation made under such provisions, or impressed upon or affixed to any package in which any such goods, material, or merchandize are contained; and such stamps respectively shall be made, impressed and affixed, in such manner, and by means of such dies or other instruments as shall, from time to time, be ordered and regulated by the Minister of Inland Revenue ;

Subject to Excise.

The words "*subject to Excise*" wherever they occur in this Act, shall mean—"subject to the provisions of this Act, or to any other Act, passed or to be passed respecting duties of Excise or the Inland Revenue, or to any proclamation, order in Council, or departmental regulation published or made or that may be hereafter published or made under such provisions;" and every place or premises wherein licit or illicit, licensed or unlicensed, mashing, fermentation, distillation, rectifying, brewing, or manufacturing of Tobacco or manufacturing of any article in bond, or manufacturing of any article on which there is a duty of Excise, or which is manufactured wholly or partly out of any articles on which there is a duty of Excise or Customs and on which such duty has not been paid, is carried on or performed,—and every worm, still, mash-tub, fermenting-tub, or other tool, utensil, apparatus or thing, which is or might be used for such purposes lawfully or unlawfully shall be deemed to be "*subject to Excise.*"

Superior Officer of Inland Revenue.

The words "*Superior Officer of Inland Revenue*" shall mean and include the Commissioner, or Assistant Commissioner, or Inspector of Inland Revenue, or any person doing duty

Digitized by Google

duty as the deputy head of the department and any Inspecting Officer of Inland Revenue or of Excise.

The words "*Departmental Regulation*" whenever they occur in this Act shall mean and include all regulations and rules promulgated by the department of Inland Revenue and duly authenticated by the deputy head of that department. Departmental Regulation.

OF LICENSES.

3. From and after the passing of this Act no person, except such as shall have been licensed as herein provided, shall carry on the business or trade of a distiller, or brewer, or maltster or of a manufacturer of tobacco, or use any utensil, machinery or apparatus suitable for carrying on any such trade or business or any business subject to Excise: Parties not to carry on any business subject to excise without license.

2. Neither shall it be lawful for any person or persons to have in his or their possession or keep any still, worm, mash-tub, fermenting-tun, distilling, rectifying or brewing apparatus, or any malt-kiln or malt-floor, nor any apparatus for the manufacture or production of malt, nor any tobacco press or mill for cutting or grinding tobacco, without having given, when such articles come into his possession and on or before the tenth day of July in each subsequent year, a full and particular list, description and return thereof to the Collector of Inland Revenue, of the same nature and in the same form as is hereby required in an application for a license to use similar apparatus or machinery; Or to keep any apparatus used in such business.

3. Except that utensils used by any person solely for the purpose of brewing Beer for the use of himself and family, and not for sale, are exempt from the provisions of this Act, and Beer so brewed shall not be liable to any duty under this Act, nor shall any license be required by any person so brewing for his own private use; Exception as to beer brewed for private use.

4. Nor shall any person growing tobacco on his own lands or property and manufacturing the same for his own private use and not for sale, require a license for so doing, nor shall the tobacco so manufactured be subject to excise duty. Or growing tobacco for private use.

4. Every license issued under any Act hereby repealed, whether of the late Province of Canada, or of the Province of Nova Scotia or New Brunswick for any purpose for which a license is required by this Act, shall continue in force for the period for which it was granted, and the holder thereof shall be deemed to be licensed under this Act for the purposes for which such license was granted to him; and he shall be subject to all the provisions, penalties and forfeitures, provided for in this Act, to the same extent, and in the same manner as if such license were issued under this Act. Existing licenses continued.

Digitized by Google

When annual licenses shall expire; and as to licenses for less than a year; and the duty to be paid for them.

5. Every other license shall terminate on the thirtieth day of June, in every year, and except as is herein otherwise provided, the same amount shall be paid for every such license whether it has a full year or only a part of a year to run from the date when it is granted; except that in the case of any application for any such license by a party who has not theretofore obtained a license, and who is beginning business, such license, if applied for on or after the first day of January, may be issued to such applicant for the remainder or until the end of the fiscal year, upon payment of one half only of the annual license duty or fee otherwise payable on such license; And except also that any party licensed as aforesaid under any Act of Nova Scotia or New Brunswick and whose license will expire before the thirtieth day of June, in the year one thousand eight hundred and sixty-eight, may obtain a license under this Act, which shall be in force from the expiration of such license until the thirtieth day of June then next, on payment of a portion of the annual license duty or fee, proportionate to the time during which such license will be in force, and upon complying otherwise with the requirements of this Act.

Proviso: as to present holders of licenses in N. S. and N. B.

Application for license.

6. Every person requiring a license under this Act shall make application therefor in writing over his signature to the Collector of Inland Revenue, within whose district or Revenue division, the business for which such license is required, is to be carried on, and every such application shall be made in the form to be prescribed by the Minister of Inland Revenue.

What the application must show.

7. Every application for a license shall state the exact locality, in the City, Town, Village, Township, or local Municipality, as the case may be, where the premises are situated, in which the business for which the license is required is to be carried on, and shall contain or have annexed thereto—a full and particular description in writing, with such models, diagrams or drawings as may be needed for fully understanding the same, of all the machinery, buildings, premises and places where such business is to be carried on, or where any of the materials or commodities used or to be used therein, or any of the products thereof, are or are to be stored or kept, and of the power by which the machinery so used is to be worked; and the description shall also describe in detail every building and every separate room, cellar, vault, shed or other compartment thereof, specifying what use is to be made of each, and stating the designation which is to be placed over the entrance to each, in accordance with the provisions of this Act; and no one license shall authorize a person to keep or use a Still, or make wort or wash, low-Wines or Spirits, or brew Malt Liquor or manufacture Malt or Tobacco, in any other place than the house or premises mentioned in the application for such License.

License to apply to one place only.

Names of sureties and capacity of utensils

8. Every such application shall also state the names of the parties proposed by such applicant as his sureties in accordance with

Digitized by Google

with the requirements of this Act; and it shall also contain a statement of the maximum quantity of each article which the utensils are capable of mashing, fermenting, distilling or otherwise producing within each half month.

to be contained in application.

9. Every application for a license for distilling or brewing, or for manufacturing in Bond, shall also contain a list and description of all utensils, stills, worms, boilers, mash-tubs, fermenting-tuns, coolers, underbacks, spirit-receivers, or other vessels or machinery, which it is intended should be placed in the premises, or which are on the premises at the time of application, specifying distinctly and clearly—

Description of utensils, for distilling or brewing.

1. The dimensions and capacity of every Still, Mash Tub, Fermenting Tun, Cooler, Spirit Receiver, and of every other utensil, in inches and wine gallons, the purpose to which each is to be applied, and the locality or position in the building in which it is or is to be placed or used; and also—

Dimensions of still, &c.

2. A description of every Pipe, Conduit, Trough, Hose, Valve, Pump, Cock, and of every means of connection or communication between the several vessels or utensils used in or about the Distillery or Brewery, with a description and drawing or model shewing the exact position of every cock, connection and joint.

Description of pipes, &c.

10. Every application for a license to carry on business as a maltster shall also contain a description of all cisterns, couch-frames, malt-floors, kilns, malt-warehouses or other places, utensils, apparatus or things whereon or wherein malt is to be made, manufactured or stored, in every case stating the dimensions, cubical contents or area as the case may be, of the cisterns, couch-frames, malt-floors, kilns or store-houses.

Of apparatus for malting.

11. Every application for a license for the manufacturing of tobacco, shall also contain a list and description of all tools and machinery used or proposed to be used in the business for which the license is sought, especially of all Presses, Cutting Machinery and Mills, stating the part of the building in which they are to be used.

For manufacturing tobacco

12. No license shall be granted for carrying on any business or trade under this Act, until after a survey has been made by an officer of Inland Revenue duly authorized for that purpose by departmental regulation or otherwise, of the building or place wherein such business is to be carried on, nor until such officer has reported that all the conditions and provisions of this Act and of any order in Council or departmental regulation made in virtue thereof, have been complied with as respects such place; And no license shall in any case be granted for carrying on any business in any building which forms part of or is appurtenant to, or which communicates by any common entrance with any

Premises referred to in license to be surveyed by an Officer of Inland Revenue.

Digitized by Google

shop or premises wherein any article to be manufactured under such license is sold by retail, or wherein there is kept any broken packages of such articles.

Conditions of license, and security to be given by a Distiller.

13. A license to carry on the business or trade of a Distiller may be granted to any party, who has complied with the other requirements of this Act, provided that the granting of such license has been approved by the District Inspector, and that the party has, jointly with not less than two and not more than six good and sufficient sureties, entered into a bond to Her Majesty, Her Heirs and Successors, in a sum equal to the amount at which the Collector or some superior officer of Inland Revenue estimates the duties to be paid by the party to whom the license is granted, on the products of the distillery for which it is granted, worked to its full capacity, during one month of the time for which the license is to remain in force, the party obtaining the license being bound in the full amount of such estimate, and the sureties each severally for such amount as that the sums for which they are respectively bound shall together be equal to the amount of such estimate; and such bond shall be taken before the Collector or superior officer of Inland Revenue, who shall cause such sureties to justify as to their sufficiency, each for the sum for which he is bound, by affidavit to be made before him and indorsed upon the bond, and shall be conditioned for the rendering of all accounts and the payment of all duties and penalties which the party to whom the license is to be granted will become liable to render or pay under this Act, and that such party will faithfully comply with all the requirements of this Act, according to their true intent and meaning, as well with regard to such accounts, duties and penalties as to all other matters and things whatsoever.

Conditions of license, and security to be given by a Rectifier.

14. A license to carry on the trade or business of a Rectifier may be granted to any party who has complied with the provisions of this Act, provided that the granting of such license has been approved by the District Inspector and that the party has, jointly and severally with two good and sufficient sureties, entered into a bond to Her Majesty, Her Heirs and Successors in the sum of four thousand dollars; and such bond shall be taken before the Collector of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him by affidavit endorsed upon such bond, and shall be conditioned for the rendering of all accounts and the payment of all duties and penalties which the party to whom the license is to be granted will become liable to render or pay under the provisions of this Act, and that such party will faithfully comply with the requirements thereof according to their true intent and meaning; as well with regard to such accounts, duties and penalties, as to all other matters and things whatsoever.

Conditions of license and

15. A license to carry on the trade or business of a Maltster or Tobacco Manufacturer may be granted to any party who has complied

Digitized by Google

complied with the provisions of this Act, provided that the granting of such license has been approved by the District Inspector, and that the party has, jointly and severally with two good and sufficient sureties, entered into a bond to Her Majesty, Her Heirs and Successors, in a sum equal to the amount at which the Collector of Inland Revenue estimates the duties to be paid by the party to whom the license is granted, during two months of the time it is to remain in force; and such bond shall be taken before the said Collector of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him, by affidavit endorsed upon such bond, and shall be conditioned for the rendering of all accounts, and the payment of all duties and penalties which the party to whom the license is to be granted, will become liable to render or pay under the provisions of this Act, and that such party will faithfully comply with the requirements thereof, according to their true intent and meaning, as well with regard to such accounts, duties and penalties, as to all other matters and things whatsoever.

Security to be given by a Maltster or Tobacco Manufacturer.

16. A license to carry on the trade or business of a Brewer may be granted to any party who has complied with the provisions of this Act, provided that the granting of such license has been approved by the District Inspector and that the party has, jointly and severally, with two good and sufficient sureties, entered into a bond to Her Majesty, Her Heirs and Successors, in the sum of one thousand dollars, and such bond shall be taken before the Collector of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him by affidavit endorsed upon such bond, and shall be conditioned for the rendering of all accounts and the payment of all penalties to which the party to whom the license is granted will become liable under the provisions of this Act, and that such party will faithfully comply with the requirements thereof according to their true intent and meaning, as well with regard to such accounts and penalties as to all other matters and things whatsoever.

Conditions of license and security to be given by a Brewer.

17. The Governor in Council may, in his discretion, authorize the manufacture in bond of such dutiable goods as he may from time to time see fit to designate, in the manufacture or production whereof spirits or other articles subject to duties of customs or excise are used, by persons licensed to that effect and subject to the provisions herein made and to the Regulations to be made by the Governor in Council in that behalf.

Governor in Council may authorize the manufacture of goods in bond from dutiable articles.

18. Before any person shall be entitled to carry on any such manufacture in bond, he must apply for and obtain a license so to carry on the manufacture of some certain kind or kinds of goods to be mentioned in the application and license, in some certain premises to be therein described; Every such license shall be known as a Bonded Manufacturing License, and no such license

Conditions of license so to manufacture and security to be given.

Digitized by Google

license shall be granted to any party until the granting thereof has been approved by the Department of Inland Revenue, nor until he has, jointly and severally with good and sufficient sureties to the satisfaction of the Collector or some superior officer of Inland Revenue, entered into a bond to Her Majesty, Her Heirs and Successors, in the sum of four thousand dollars, and in a further sum equal to the amount at which the said Collector or superior officer of Inland Revenue estimates the maximum amount of duties to be paid by such party during any two months of the time it is to remain in force; and such bond shall be taken before the said Collector or superior officer of Inland Revenue, who shall cause such sureties to justify as to their sufficiency before him, by affidavit endorsed upon such bond, and shall be conditioned for the rendering of all accounts and the payment of all duties and penalties which the party to whom the license is granted will become liable to render or pay under the provisions of this Act, and that such party will faithfully comply with the requirements thereof, according to their true intent and meaning, as well with regard to such accounts, duties and penalties, as to all other matters and things whatsoever.

How long such bonds under foregoing sections, shall remain in force.

19. Every such bond as aforesaid shall remain in force so long as any duty upon any articles or commodities subject to Excise, or on any license, or any penalty to which the bond relates, remains unpaid by the party to whom such license was granted.

New bond if new license.

20. But whenever any new license is granted to any party, a new bond shall be likewise entered into with reference to such new license.

New bond if surety dies, becomes insolvent, &c.

21. And a new bond shall also be given, whenever, during the period for which any license to which the bond first given relates is in force, either of the sureties dies, becomes insolvent, or removes permanently out of Canada; and the license shall be void from the time the party to whom it was granted is required by the Collector or superior officer of Inland Revenue to enter into a new bond, until the time when such new bond is given, during which time the party neglecting to enter into such new bond shall be held to be without a license.

To whom the application for a license shall be made, and by whom issued.

22. Every application for a license under this Act shall be forwarded by the Collector of Inland Revenue to the District Inspector, or in the case of an application for a bonded manufacturing license to the Department of Inland Revenue, with such information as may be required by any departmental regulation, and so soon as the said application shall be returned to the Collector, endorsed with the approval of the District Inspector or of the Department of Inland Revenue, and upon the due execution of the Bond with sureties as herein required, the Collector of Inland Revenue shall issue a license to

Digitized by Google

to carry on the business and to use the utensils, machinery and apparatus specified in the application, and in the place or premises therein specified, and in such place or premises only, and shall immediately report the issue of such license to the Department.

23. Upon the expiration of every license issued under this Act, the granting of a new license in lieu thereof, shall be subject to the same restrictions and conditions as the granting of the original license was subject to. Same conditions for new license.

24. The burden of proof that any license required by this Act has issued, shall rest upon the person to whom such license is alleged to have been issued. Burden of proof of license.

DUTIES PAYABLE ON LICENSES.

25. The party in whose favor a license is granted, for distilling and rectifying, or for either, by any process, shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of two hundred and fifty dollars. On general license for distilling and rectifying by any process.

26. The party in whose favor a license for brewing is granted shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of fifty dollars. For brewing.

27. The party in whose favor a license for malting is granted shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of two hundred dollars; Provided, that the Governor in Council may direct that establishments where malting may be carried on, shall be divided into three classes, and may exact for the first class a sum not exceeding two hundred dollars for a license,—for the second class a sum not exceeding one hundred and fifty dollars for a license, and for the third class a sum not exceeding one hundred dollars for a license. For malting. Proviso.

28. The party in whose favor a license for manufacturing Tobacco is granted shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of fifty dollars each. For manufacturing Tobacco.

29. The party in whose favor a license for manufacturing in bond is granted shall, upon receiving such license, pay to the Collector of Inland Revenue the sum of fifty dollars. For manufacturing in bond.

30. All license fees shall be due and payable at the time when the license is granted, and in no case shall the certificate of license be granted until all such fees are paid. To be paid before license issues.

DUTIES

Digitized by Google

DUTIES OF EXCISE.

Duties of Excise imposed.

31. In lieu and instead of all duties of Excise imposed by any Act hereby repealed on any of the articles hereinafter named or upon Beer, there shall be imposed, levied and collected on all Spirits distilled, and on all Malt and on fermented beverages made in imitation of malt liquor and wholly or in part from any other substance than malt, and on Tobacco manufactured within the Dominion of Canada, and on goods manufactured in Bond therein, the following duties of excise which shall be paid to the Collector of Inland Revenue, as herein provided, that is to say :—

On Spirits.

2. On every wine gallon of spirits of the strength of proof by Sykes' hydrometer, and so in proportion for any greater or less strength than the strength of proof and for any less quantity than a gallon, sixty cents;

On Malt.

3. On every pound of malt, one cent ;

On beer or imitations of beer.

4. On every gallon of any fermented beverage made in imitation of Beer or Malt Liquor and brewed in whole or in part from any other substance than Malt, three cents and a quarter of a cent;

Duties of excise on Manufactured Tobacco.

5. On Manufactured Tobacco there shall be imposed, levied and collected the following Duties of Excise, that is to say:

Cavendish, Snuff, &c.

6. On Cavendish Tobacco, and Snuff, and on manufactured Tobacco of all kinds, except Cigars and common Canada Twist, on every pound or less quantity than a pound, ten cents:

Canada twist.

7. On common Canada Twist otherwise called *Tabac blanc en torquette*, being the unpressed leaf rolled and twisted, and made wholly from raw Tobacco, the growth of Canada, for every pound or less quantity than a pound, five cents:

Cigars.

8. On Cigars per one thousand according to the value thereof as hereunder, viz :

Value not over $10 per 1000.....							$1 00
"	over $10 and not over $15 per 1000....						2 00
"	"	15	"	20	"	....	3 00
"	"	20	"	40	"	....	4 00
"	"	40			"	....	5 00

On goods munufactured in bond.

9. All goods manufactured in bond shall, if taken out of bond for consumption in Canada, be subject to duties of excise equal to the duties of customs to which they would be subject if imported from Great Britain and entered for consumption in Canada; and whenever any article not the produce of Canada, upon which a duty of Excise would be levied if produced in Canada,

Digitized by Google

Canada, is taken into a Bonded Manufactory, the difference between the duty of Excise to which it would be so liable, and the Customs duty which would be levied on such article, if imported and entered for consumption, shall be paid as a duty of Excise, when it is taken into the Bonded Manufactory;

Commencement of duties.

10. The said Duties shall be held to have been imposed and to have been payable on and after the thirteenth day of December in the year one thousand eight hundred and sixty-seven, on all Spirits and Tobacco, distilled, manufactured or made, or taken out of bond for consumption in Canada, on or after the said day, and on all Malt held by any Brewer, Maltster, Distiller or other person on the said day, or manufactured or made thereafter; and any duty of Excise on Beer shall be held to have been repealed on all Beer manufactured or brewed on and after the said day wholly from Malt on which a duty of Excise has been paid or will be payable; but a duty of Excise of three cents per gallon shall be payable on Beer brewed or in process of brewing before the said day;

On what quantities to be levied.

11. The said duties shall accrue and be levied on the quantities made or manufactured, which may be ascertained in the manner herein provided or otherwise proved, and shall be in addition to all sums charged as license duties whether on utensils or otherwise.

To be duties within the Management Act.

32. The said duties shall be in addition to all sums charged as license duties, and shall be duties within the meaning of the *Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants*, and shall form part of the Consolidated Revenue Fund of Canada.

OBLIGATIONS OF PERSONS HOLDING LICENSES.

Notice to Collector of intention to work at any time.

33. No Distiller, Maltster, Tobacco Manufacturer or Bonded Manufacturer shall work his Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory at any time, unless he has given at least six days previous notice in writing to the Collector of Inland Revenue, of his intention to work the same at some time not less than six nor more than twenty days after the giving of such notice, but having commenced to work the same within such time he may continue to work the same uninterruptedly without new notice,—but after any interruption of work for more than one week a new notice must be given:

What shall be working.

2. Any use made of any still, mash-tub or fermenting-tun, for the purpose of distillation, mashing, or fermentation, shall be deemed to be a working of the distillery, and an acting as a Distiller within the meaning of this Act;

3.

Digitized by Google

The same as to Maltsters.

3. Any use made of any cistern, couch-frame, malt-floor or kiln for the steeping, germinating or drying of any grain, shall be a working of a malt-house, and an acting as a maltster within the meaning of this Act;

Penalty for working without notice.

4. And if any Distiller, Maltster, Tobacco Manufacturer or Bonded Manufacturer works his Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory at any time for which he has not given notice of his intention to work the same, he shall for each day on which he so works such Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory, incur the same penalty and forfeiture as if he had worked the same without a license.

Assistance to be afforded to officer of Inland Revenue.

34. Every person licensed under this Act shall, at all times when required, supply any Officer of Inland Revenue with all assistance, lights, ladders, tools, staging or other thing necessary for inspecting the premises, stock, tools or apparatus belonging to such licensed person, or for weighing, guaging or testing any article or commodity then on the premises for which the license is granted, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels and other vessels, when required so to do by any Officer of Inland Revenue.

Notice of intention to alter apparatus to be given to Collector.

35. If any person or persons, holding a license under this Act, intends to make any alteration or addition to the premises, apparatus, machinery or utensils described as herein provided, or to remove any portion of such utensils, machinery or apparatus, notice in writing shall be served on the Collector of Inland Revenue of the intention to make such alterations, additions or removals, at least one week before they are commenced, and all such notices shall set forth fully and correctly the particulars of the proposed alterations, additions or removals.

Collector may require new list, &c., of apparatus.

36. The Inspector of Inland Revenue may for sufficient cause, of which sufficiency he shall be the sole judge, at any time after having given ten days notice, require a new list and description such as are herein required in an application for a license, to be made out and furnished by any party holding a license under this Act; and any party refusing to comply with such requisition, shall incur the same penalty as is provided for carrying on any business subject to Excise without license; and every such description shall be received as evidence in all Courts of Law.

Penalty for refusal.

Designation of Apartments.

Inscription over entrance to premises subject to Excise.

37. There shall be conspicuously placed over the chief entrance to every place or premises subject to Excise, or where any business subject to Excise, is carried on, the name or names of the person or the name and style of the firm by whom such premises are occupied, or on whose behalf such business is carried on:

2.

Digitized by Google

2. The name so placed shall be written or printed in Roman characters at least three inches in height, in white letters on a black ground ; Size of lettters, &c.

3. Every separate apartment, room, granary, kiln, vault or storehouse, in every place or premises, subject to Excise, or in which any business subject to Excise is carried on, or in which is placed any utensil, apparatus or machinery, used in such business, shall have over the principal entrance thereto a notice in roman characters at least two inches in height, stating the name and designation thereof, and the purpose to which it is applied or for which it is used ; Inscription over entrance to each separate apartment.

4. Every notice or written or printed designation or name of any person or persons, place or thing hereby required, shall be printed, painted, put up or affixed under and according to the direction of an Officer of Inland Revenue, and at the expense of the party on whose behalf it is done. To be subject to approval of officer of Inland Revenue.

Books, Accounts and Papers.

38. Every person or party licensed as a Distiller, shall keep a book or books in a form to be furnished from time to time by the Department of Inland Revenue, which books shall be open at all seasonable hours to the inspection of the Collector of Inland Revenue or other proper Officer, and wherein such Distiller shall enter, from day to day ; Books to be kept by a distiller : and what to show.

1st. The quantities of grain or other vegetable production, or other substance, put by him into the mash-tub or otherwise used by him for the purpose of producing beer or wash, or consumed by him in any way for the purpose of producing spirits ; The same.

2nd. The quantity of beer or wash fermented or made by him or in his Distillery ; The same.

3rd. The quantity of spirits by him distilled, manufactured or made ; The same.

4th. The hours during which his stills are worked on each day. The same.

39. Every person licensed to carry on business as a Maltster, shall keep a book or books in a form to be furnished from time to time by the Department of Inland Revenue and to be open at all seasonable hours to the Collector or other proper officer of Inland Revenue, wherein such Maltster shall enter from day to day :— Books to be kept by a maltster, and what to show.

1. The quantity in bushels by gauge of dry grain or leguminous seeds placed to steep or wet in any cistern or cisterns ; The same.

2.

Digitized by Google

The same.

2. The quantity in bushels by gauge, and in pounds by weight, of malt taken from the kilns; and also such other particulars relative to quantity in the various stages of its manufacture as may be required by departmental regulations.

Stock Books, by any party carrying on business, subject to Excise.

40. Every distiller, maltster, tobacco manufacturer and bonded manufacturer who is required to take out a license under this Act, or who carries on any business subject to Excise, shall further keep such stock books and other books, and in such form and manner as may be ordered and prescribed by regulations approved by the Minister of Inland Revenue :

What the stock books must show.

In which Stock Books, there shall be clearly recorded day by day in the prescribed columns, a full and particular account of all Grain, Malt, Spirits, raw and manufactured Tobacco and other Stock, material or commodity brought into the Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory to which such Stock Books relate, and also of all Grain, Spirits, Malt, raw or manufactured Tobacco, or other Stock, material or commodity, sold, removed or transferred from such Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory; together with such further particulars as may be required by any departmental regulation in that behalf; stating in every case the name of the person from whom the same was bought or obtained, or to whom it was sold or transferred as the case may be, and also the mode of conveyance by which it was brought to the Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory, or by which it was carried therefrom :—and if any such Grain, Malt, Spirits, manufactured or raw Tobacco, or other stock, material or commodity has been conveyed by any vessel or railway to or from any Port, Wharf or Station, situated within a distance of ten miles from the Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory, then such Vessel or Railway shall be named as the conveyance by which such Grain, Spirits, Malt, Tobacco, Stock, material or commodity was conveyed as aforesaid.

Books, &c., to be produced to proper officer when required.

41. Every person who is licensed to carry on any business subject to Excise under this Act, shall, when required so to do and as often as may be required by any Officer of Inland Revenue, and at any time within ordinary business hours, or when any operation is being carried on within the premises licensed, produce for the inspection of any such officer,—

Officers may make entries therein.

1. All books, papers and accounts kept in accordance with the requirements of this or any other Act, or in accordance with the requirements of any Order in Council or any Departmental regulation made under this or any other Act, in which books or accounts such Officer may enter any memorandum, statement or account of quantities, and in such case he shall attest the same by his initials ;

2.

Digitized by Google

2. All books, accounts, statements and returns whatsoever, and all partnership accounts used by any such person or by any copartners in carrying on any such licensed business, whether such books, memorandums, papers or accounts be considered private or otherwise ; and every such officer shall be permitted to take any extracts therefrom or any copies thereof ; Or take extracts therefrom.

3. And in case of the seizure of any article or thing in any Distillery, Malt-house, Tobacco Manufactory, or Bonded Manufactory, for contravention of this Act, the seizing officer or any superior officer of Excise, may take possession of and remove all or any books, papers or accounts kept under the requirements of this Act, or under the requirements of any Order in Council or any Departmental regulation made thereunder, and may retain the same until the seizure shall be declared valid by competent authority, or the article or thing seized or the proceeds thereof shall, by such authority, be directed to be restored. In cases of seizure, books may be seized and removed.

42. Except as herein otherwise provided, every quantity of grain recorded or stated in the Stock Books herein mentioned, and in all returns, descriptions and statements required to be kept or made by this Act, and the quantity of every other article or commodity, except fluids, used in or about premises subject to Excise, or entering in the manufacture of any article or commodity subject to Excise, shall be stated in pounds avoirdupois. Quantities to be stated in lbs. except fluids.

2. All quantities of fluids shall be stated in the aforesaid books, returns, statements and descriptions, in wine gallons : Fluids in wine gallons.

" 3. All beams, scales, weights and measures used in or about any Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory, shall be inspected, tested and verified by an Officer of Inland Revenue, or by an Inspector of weights and measures, as often as any Inspector of Inland Revenue or of Excise may direct. Weights and measures.

CLAUSES HAVING SPECIAL REFERENCE TO DISTILLERIES.

Charge of Duty on Spirits.

43. The duty upon spirits shall be charged and computed as follows : How it may be computed

1. Upon the grain used for its production at the rate of one gallon of proof spirits for every seventeen pounds ;

2. Upon the quantity of beer or wash fermented or made in the Distillery at the rate of one gallon of proof spirits for every fourteen gallons of beer or wash ;

3.

Digitized by Google

3. Upon the quantity of beer or wash fermented or made in proportion to its alcoholic value;

4. Upon the quantity of spirits which passes from the tail of the worm into the close receivers;

5. Upon the quantity of spirits sold or removed from any Distillery by the Distiller or by his Agent or for his account;

Method giving most duty to be taken.

And that method of computation which yields the greatest amount of revenue shall in all cases be the one upon which the Distiller shall pay the duty;

Provision when damaged grain or mill offal is used

Except that when any Distiller is about to use damaged grain, or mill offal, and shall give the proper officer one week's notice of his intention so to do, such officer shall specially inspect the beer or wash made from such grain or mill offal, and test its alcoholic value, and the quantity of such material which it contains, and if he reports that the yield of such damaged grain or mill offal is less than one gallon of proof spirits to seventeen pounds, the Minister of Inland Revenue may authorize the assessment of the duty on the highest quantity ascertained by any of the other methods, without reference to the quantity of damaged grain or mill offal used by the Distiller.

Computing duty under Sect. 43.

44. For the purpose of computing the duty by the methods prescribed in the next preceding section:—

On the quantity of grain.

1. The quantity of grain shall be the quantity actually weighed into the mashes and recorded in the Books kept under the requirements of this Act; except that whenever the Inspector of Inland Revenue shall have cause to doubt the correctness of the quantity so entered on the said Books, he may cause an enquiry to be made by any inspecting officer of Inland Revenue, who may swear and examine parties and witnesses under oath, or he may himself in like manner enquire as to the quantity of Grain taken to the Distillery in which such Books are kept, and as to the quantity of Grain removed therefrom, and generally into the matters referred to, and shall determine as nearly as may be the actual quantity of Grain consumed in the Distillery; and the duty may be assessed and levied on the quantity of Grain so determined, in the proportion of one gallon of Proof Spirits to every seventeen pounds of Grain:

On the quantity of Beer or Wash.

2. The quantity of Beer or Wash fermented or made in the Distillery shall be determined by the Distiller, or as often as may be directed by any departmental regulation in that behalf, by an Officer of Inland Revenue who shall gauge the quantity in the fermenting tuns at the time when the fermentation has been completed or when the beer is in a fit state for distillation; and the quantities so determined shall be recorded by the Distiller,

Digitized by Google

Distiller, or by the officer of Inland Revenue as the case may be, in a Register of Fermentation under such regulations as the Department of Inland Revenue may order; Except that whenever the Inspector of Inland Revenue may have cause to doubt the correctness of the quantity entered in the said Register of Fermentation, he may enquire, or cause an enquiry to be made in the manner above provided, as to the capacity of the Fermenting Tuns used in the Distillery, the frequency with which they have been used, and the quantity of Beer or Wash, from time to time fermented therein; and the duty may be assessed and collected in the proportion of one gallon of proof spirits for every fourteen gallons of Beer or Wash determined by such Inspecting Officer, after such enquiry, to have been fermented in the distillery;

Inquiry in case of doubt.

Assessing duty according to result.

3. The alcoholic value of any Beer or Wash made in any Distillery may be determined by any Inspecting Officer of Inland Revenue or by any Collector of Inland Revenue, who as often as he may deem it to be necessary, but not more frequently than once in each day, may take out of any Beer or Wash then in the Distillery, a quantity not exceeding twenty-eight gallons, as a sample, which he may distil or cause to be distilled, for the purpose of any computation under this Act, and he may calculate the value or strength of the Beer or Wash used in that Distillery according to the result ascertained from the sample so taken; or—

Ascertaining the alcoholic value of the Beer or Wash.

He may at any time test the strength of any Beer or Wash then in the Distillery, by its attenuation or by running a portion thereof not exceeding the contents of any one fermenting tun, through the Stills, in the ordinary course of working such Distillery, and may require the ordinary operatives of such Distillery to do the work, or may introduce other operatives into the Distillery for that purpose; and for the purpose of any such computation as aforesaid he may calculate the alcoholic value or strength of the Beer or Wash used in that Distillery according to the result ascertained from the portion of such Beer or Wash so distilled, and the alcoholic value of the Beer or Wash as determined by either of the above methods, may be applied to or used in the computation and charge of duty on the Beer or Wash made in that Distillery;

Testing the strength of the Beer or Wash.

4. The quantity of spirits which passes from the tail of the worm into the close receivers shall be ascertained and determined by gauging the quantity and testing the strength thereof in such manner, at such periods and by such means, as may from time to time be directed by any departmental regulation in that behalf;

Quantity of spirits passing into the close receivers.

5. The quantity of spirits sold or removed from any Distillery by the Distiller shall be the quantity recorded in the Distillery Stock Books kept under the provisions of this Act:—Except that

Ascertaining the quantity of spirits sold or removed

Digitized by Google

from the distillery.

that whenever the Inspector of Inland Revenue shall have cause to doubt the correctness of the quantity so recorded he may enquire, or cause an enquiry to be made in the manner above provided, as to the quantity of spirits sold by the Distiller or by his agent or for his account, and as to the quantity removed from the Distillery by any agency or vehicle whatsoever, and also as to the quantity of duty paid spirits brought into the Distillery; and for the purpose of such enquiry all shipping notes or bills of lading signed by the Distiller or by his agent shall be taken as evidence of the sale or removal by him from his Distillery of the quantity therein specified, and the evidence on oath of any Railway Clerk, Station-Master or Agent, or of any Warehouseman or Common Carrier or Shipping Agent, as to the truth of the accounts kept by him of shipments or removals of spirits by any Distiller shall be sufficient evidence of the truth of such accounts; and the evidence on oath of any person who has purchased any spirits from a Distiller or from his Agent, shall be taken as evidence that the spirits so bought were manufactured at the Distillery of the Distiller selling the same, unless the contrary is shewn; and all packages of spirits not otherwise described in the accounts or shipping notes or bills of lading relating thereto, or proven to contain some greater or less quantity, shall be reckoned as puncheons containing each one hundred and seventy-seven gallons of proof spirits; and the difference between the quantity shewn by such enquiry to have been sold by the Distiller or removed from his Distillery, and the quantity of duty paid spirits brought into the Distillery, shall be held to be the quantity liable to duty under this Act;

Inquiry in case of doubt.

Computation on the result.

Period to which enquiries may extend: provision if more duty is found to be payable.

6. The enquiries of the Inspecting Officer or Collector of Inland Revenue as herein provided, may be made for any period not more than one year before the time when the enquiry is commenced; and if it is found that during the said period the returns have been made for, and the duty charged on a less quantity of spirits than is ascertained and determined by the result of such enquiry, the additional duty then determined shall become due and payable within five days after the Distiller has been notified of the result of such enquiry, and the payment of such additional duty shall be enforced in the same manner, and under the same conditions and penalties as the payment of the duty mentioned in the Semi-Monthly Returns;

Onus of proof that the officer is wrong.

7. If the determination of the Officer under any provision of this Act be disputed, the proof of the error or wrong shall rest with the party alleging it.

Vessels, &c., to be accurately gauged once a year.

45. On or before the tenth day of July in each year, the capacity of all Spirit Receivers, Fermenting Tuns, Mash Tubs, Coolers and other vessels used in or about distilleries, shall be accurately ascertained by gauging or by actual measurement by standard measures of capacity, as the Officer of Excise may determine or direct; and—

2.

Digitized by Google

2. A correct list thereof shall be made out, by the Distiller, in triplicate, setting forth the number, use, dimensions and capacity of every such vessel, and the said list shall be attested by the signature of the Distiller, and shall be subject to the verification and approval of the officer of Excise under whose supervision the gauging or measurement was made, and when signed by him in testimony of such approval, every such list shall be received as evidence in all Courts of Law.

List to be made:—particulars.

Provided always, that every such list may at any time be revised by any superior officer and corrected, should any errors be found therein.

Proviso for correction.

3. One counterpart of such list shall be kept on record at the Distillery, another at the Department of Inland Revenue, and the third shall be retained by the Collector of Inland Revenue within whose district or division the Distillery is situated.

Triplicate copies and where to be kept.

46. The spirit receiver, doubler, low wines receiver, faints receiver; the safe or apparatus enclosing the tail of the worm or still,—and

Certain apparatus to be constructed according to departmental regulations.

2. Every pump used for removing any spirit, wash, or other matter to or from any vessel or from one vessel to another, and every lock, pipe, valve, duct, conduit, cock or connexion used for securing, leading to, or from, or between, or for giving access to any of the vessels herein mentioned or referred to,—and

3. Every valve, pipe, cock, gauge, pump, lock or other apparatus, utensil, appliance or arrangement for securing, gauging, ascertaining, testing or proving the quantity or strength of any spirit, wash or worts manufactured or distilled, or for preventing the undue abstraction of any such spirits, wash or worts,—shall be constructed, arranged and applied at the cost of the Distiller, in accordance with such plans, designs, drawings, and regulations, and of such materials as may be from time to time approved by the Department of Inland Revenue;

4. Every mash tub, fermenting tun, spirit receiver, cooler, tank, vat or other utensil or vessel, for using which a license is required, or which is used for containing or holding any commodity subject to Excise, shall have written, stamped or printed on it in white Roman characters at least two inches in height, on a black ground, the name or designation of the vessel or utensil and the contents thereof in wine gallons and in cubic inches;

Capacity of certain vessels to be marked thereon.

5. Every pipe, trough or conduit, used for the conveyance of spirits, shall be colored a *light blue;*

Pipes and conduits to be colored.

Digitized by Google

Water.

6. Every pipe, trough or conduit, used for the conveyance of water, shall be painted or colored *white*; and

Beer or Wash.

7. Every pipe, trough or conduit for the conveyance of beer or wash shall be colored *red*.

Casks how marked.

47. On both heads of every rolling cask used in any Distillery or for keeping or delivering out any spirits, there shall at all times be legibly cut, branded, or painted in oil colours, the name of the Distiller with the true contents of the cask in Wine Gallons.

Tails of worms to be inclosed in locked safes.

48. The tail of every worm in every distillery shall be enclosed in a locked or sealed "safe," or other suitable apparatus in which the strength of the spirit and low wines flowing from the worm may be approximately ascertained by the inspection of the hydrometer or other suitable instruments contained therein:

Subject to approval.

2. Every such safe shall be constructed in such manner and secured by such means and by such mechanism as may be approved by the Department of Inland Revenue;

As to communication from worm to doubler or receiver.

3. From the said closed safe or apparatus all low wines, faints and spirits, from time to time running from the end of the worm, shall be conveyed to the doubler or spirit receiver, as the case may be, through suitable pipes of such metal as may be required by departmental regulations, visible throughout the whole of their length, with stop cocks and other appliances so arranged that the liquid may be conveyed either to the doubler or to the receiver; but so that no portion of the liquid can be abstracted or diverted from the receiver or doubler without the knowledge and consent of the proper officer.

Certain distilleries to have two receivers; capacity of each.

49. In distilleries where the weekly production of spirits is not over six thousand gallons, two spirit receivers shall be provided, each of which shall have sufficient capacity to contain at least one week's production of spirit:

The same in larger distilleries.

2. In distilleries where the weekly production of spirits exceeds six thousand gallons there shall also be two spirit receivers, each of which shall have sufficient capacity to contain at least one day's production;

Gauging quantities of spirits produced.

3. The quantities of spirits produced shall be gauged and ascertained by the Officer of Excise at such intervals as may be directed by his inspecting Officer.

Spirit not to be removed until gauged &c.

50. The spirit which passes from the tail of the worm to the receiver shall not be removed from the receiver until the quantity and strength thereof has been ascertained by the Collector of Inland Revenue or other officer, and then only with the consent and in the presence of the said collector or other proper officer.

51.

Digitized by Google

51. The spirit receiver shall be a closed vessel, and all pipes, cocks or valves communicating therewith, as well as all means of access thereto, shall be securely locked or sealed, and the key or keys shall remain in the sole possession of the Collector of Inland Revenue or other proper Officer.

Receiver to be a closed vessel and locked.

52. No vessel shall be used as a close receiver for spirits in which there has been bored or made any perforation or aperture other than those necessary for its lawful use ; and if at any time it shall be discovered that any perforation, aperture or hole has been made in such receiver, or that any such exists therein, although it may have been stopped or plugged, the existence of such perforation, aperture or hole, plugged or unplugged, shall be evidence that it has been unlawfully made and used.

No perforation allowed in receiver.

53. The internal diameter of every spirit receiver shall be so proportioned to the productive capacity of the Distillery wherein it is placed, that the products of one day's work will measure in the receiver at least twenty-four inches in depth :

Proportion of internal diameter to productive capacity of distillery.

2. Around, above and below every close receiver and every apparatus used for gauging or testing the strength of spirits, and every safe or apparatus used for inclosing or guarding the tail of the worm, and around and above every fermenting tun, still charger, beer pump, or spirit pump, there shall be sufficient space to admit of a full and careful examination of every such vessel or apparatus, with the contents thereof, and there shall be a sufficient light for the purpose of such inspection ;

Space for examination to be left round apparatus.

3. The Beer Reservoir in every Distillery shall be so placed that it and every pipe, trough, hose or conduit leading into or from it may be fully seen and examined ; and no pipes, troughs, conduits or hose for the passage of any water, spirit, wash or other fluid, shall be placed near to any such Beer Reservoir, or so that any fluid whatever can be run into it, except within the knowledge of the officer in charge ;

Beer Reservoir how placed, &c.

4. Any failure to comply with the requirements or provisions of this section, after one month's notice has been given of such default, shall be sufficient cause for cancelling any license granted to the Distiller so in default, and no further license shall be granted for distilling within the premises wherein such default has occurred, until all the requirements of this and the preceding section have been fully complied with.

Penalty for non-compliance with these provisions.

54. In every Distillery which is not working, all the furnace doors, worms, still heads, and doublers, with all pipes and cocks leading to or connecting with the same, shall be closed and locked or sealed in such manner as the Collector of Inland Revenue or the Inspecting Officer may require or direct ;

Certain apparatus in distillery not working to be locked up.

Digitized by Google

direct; and the absence from any furnace door, still head, worm, doubler or cock, of the locks or seals herein required, shall subject the Distiller in whose Distillery the default has occurred, to the same penalties as he would be liable to for working without a license; provided always, that whenever it becomes necessary to execute any repairs to any of the apparatus herein mentioned, the locks and seals may be removed by a proper Officer of Inland Revenue, to such extent as may be actually necessary for the performance of such repairs, and during the period they are actually in progress.

Proviso for repairs.

Safes, metres &c., how provided and paid for.

55. All safes, metres, locks or seals which are by this Act required to be used or which may be required to be used by any departmental regulation or order in Council issued by virtue of this Act, shall be supplied by the Department of Inland Revenue, under such regulations of the department as may be adopted in that behalf; but the cost thereof shall be borne and discharged by the Distiller, for whose premises or utensils they are provided.

Certain apparatus for redistilling low wines or faints to be locked or sealed.

56. In distilleries where a doubler is used or where a portion of the products of the still, commonly called *Low Wines* or faints, are passed over for redistillation, the vessels and pipes used in that process shall be locked or sealed and shall receive the Low Wines from the safe or apparatus which encloses the tail of the worm, through metal pipes, cocks or valves properly secured by locks or seals so as to prevent the running or removal of any liquid therefrom, except with the knowledge and concurrence of the proper officer.

CLAUSES HAVING SPECIAL REFERENCE TO MALT-HOUSES AND MALTING.

Measurements of grain how made, and stated.

Weight in certain cases.

57. All measurements of grain after it has been deposited in any malt-house, or of grain in process of conversion into malt, or of malt up to the time when it has been completely manufactured, gauged and placed in the malt warehouse, shall be made by gauge and shall be stated in Winchester bushels of the standard capacity of $2150\frac{42}{1000}$ cubic inches; but on the removal of any malt from a kiln, the quantity shall also be ascertained and stated in pounds.

Shape of cisterns.

58. Every Cistern shall be made with its interior truly cylindrical, or it shall be a rectangular vessel, having its bottom truly even and its sides perfectly straight and perpendicular, (but the bottom may have such an incline as is necessary for drip) or shall be of such other shape as may be approved by the Governor in Council.

Construction of couch-frames.

59. Every couch-frame shall be constructed with the sides and bottom straight and at right angles with each other, and of

Digitized by Google

of such strength that they will preserve their true form when the frame is filled with grain.

60. Above and around every such cistern or couch frame, there shall be sufficient space for conveniently gauging their contents, and they shall be so placed that there shall be sufficient light for that purpose and for examining the contents. Space to be left round either.

61. The Maltster shall in all cases, when required so to do by any Officer of Inland Revenue, deposit the grain in process of manufacture into malt on the malt-floor, of an equal depth over the whole surface covered, and shall make the outward edges thereof in straight lines convenient for gauging, as may be required by the officer aforesaid. Grain how to be deposited on malt floor.

62. No grain shall be placed in any cistern to steep or wet, nor shall any malt be placed in any kiln to be dried, nor moved from any such kiln after the drying is completed, except between the hours of eight o'clock in the morning and five o'clock in the afternoon. As to steeping or moving grain.

63. Whenever any Maltster is about to place any grain or other commodity in a cistern, to be steeped for the making of malt, he shall first give the proper officer, when the malt-house is within a city or town, twenty-four hours' notice, or if not within a city or town, forty-eight hours' notice, of his intention to steep grain as aforesaid, stating in every such notice the day and hour at which he will place the grain in the cistern, the quantity of grain which he will then place in such cistern, and describing the cistern by number or otherwise in which it is to be placed. Notice to officer of intent to steep grain.

64. Whenever any Maltster is about to place any grain or other commodity then in process of manufacture into malt, on any kiln, to be dried, or when he is about to move any dried malt from any such kiln, he shall notify the proper officer of his intention so to do, in the same manner as is provided in the next preceding section; and the notices required to be given by this and the next preceding section, shall be in writing, and in such form as may be from time to time required by departmental regulations. Notice of intent to dry grain or move dried malt.

65. The charge of duty on Malt shall be computed as follows: Computing duty on malt.

1. The grain or other commodity when about to be placed in steep shall, after it is placed in the cistern and before being wetted, be carefully gauged by the proper officer of Inland Revenue, and the quantity so ascertained shall be immediately entered by the person who gauges it, in a book provided for that purpose, and such person shall also attest the correctness of the entry by his signature; Gauging before wetting.

2.

Digitized by Google

After wetting.

2. The proper officer shall also gauge the grain or other commodity while in the cistern after it has been wetted, while in the couch-frame and while on the malt-floor, and also at such other periods during its manufacture as may be directed by departmental regulation, and the results of such gauging shall be entered in the book provided for that purpose by the person who gauges the quantities and shall be used for computing the quantity of malt manufactured as herein provided;

Gauging and weighing malt when dried.

3. The quantity of malt taken from the kiln after it has been dried, and the process of manufacture completed, shall be gauged and weighed by or in the presence of the proper Officer of Excise, and the quantity so ascertained shall be immediately entered in the book or books provided for that purpose, both in pounds and in bushels, by the person who gauges it, who shall attest every such entry by his signature.

Basis of calculation for comparing results of gauging and computations.

66. In comparing the results of the gaugings and computations made, as herein provided, the following proportions shall form the basis of calculation:

1. One hundred bushels by gauge of dry barley shall be held to be equivalent to one hundred and seven bushels by gauge of dry malt;

2. Eighty-one and a half bushels by gauge of dry barley shall be held to be equivalent to one hundred bushels (by gauge) of barley properly saturated with water for the purpose of malting;

3. One hundred bushels gauged in the cistern, after the saturation is completed, or in the couch-frame, shall be held to be equal to one hundred and sixty-three bushels gauged on the floor;

4. One hundred bushels gauged in the cistern, after saturation is completed, or in the couch-frame, shall be held to be equal to eighty-one and a half bushels by gauge of malt;

And so in proportion for every greater or less quantity;

Mode of calculating duty.

5. The principal gauge whereby the duty shall be computed, shall be that of the malt on its removal from the kiln; but whenever the quantity computed from any other gauging or series of gaugings is greater than the final gauge of the malt, then that computation which yields the largest quantity shall be the quantity for duty; and whenever the difference between the results of any two sets of gaugings taken as aforesaid, exceeds seven per cent., the return of the quantity of grain placed in steep shall be deemed to have been a fraudulent return, and the Maltster shall be liable to all the penalties for making fraudulent or false returns;

6.

Digitized by Google

6. Whenever any quantity of dry malt stated bushels by gauge, is to be stated by an equivalent weight in pounds, without actually weighing it, the computation shall be made by reckoning thirty-six pounds as equal to one bushel by gauge; but the weight of all malt, when it is charged with duty and placed in the malt-warehouse, shall be determined by weighing it. Weight of dry malt equivalent to a bushel.

67. If at any time any doubt or question arises as to the manner of determining the quantity of malt liable to duty under this Act, such doubt or question shall be decided and determined by the Minister of Inland Revenue, whose decision shall be final and conclusive. Doubts how decided.

68. So soon as any malt is dried and ready for removal from the kiln, and the required notice of such removal duly given, the said malt shall be removed to the malt-warehouse, and shall be then stored under the locks of the owner thereof, and the locks of the Crown, until the duty thereon has been paid. Removing dried malt.

69. For the storage of malt on which the duty has not been paid, every Maltster shall, at his own charge, provide a suitable warehouse, subject to the survey of the proper officer of Inland Revenue, and every entrance to such warehouse, as well as every window or other mode of access thereto, shall be secured to the satisfaction of such Surveying Officer, and also to the satisfaction of the Inspecting Officers. Storage of malt until duty is paid.

70. Every principal entrance to a malt-warehouse shall be secured by two locks, one of which shall be supplied by the Department of Inland Revenue, and the key thereof shall be kept by the Officer of Inland Revenue, the other lock shall be provided by the owner; all other entrances shall be secured on the inside; and every such malt-house shall be fitted up with such convenient bins or other compartments for storing the malt as may be required by the Officer of Inland Revenue, so that it may at any time be gauged and the stock taken. Securing malt-warehouses.

71. Whenever any Maltster ceases from working his malt-house, the doors, windows and all other means of access thereto, shall be closed and secured to the satisfaction of the proper officer of Inland Revenue, and the principal entrance shall be secured by a Crown's lock, the key whereof shall remain in the possession of the Collector of Inland Revenue, and the malt-house shall remain so closed and secured until the Maltster gives the required notice of his intention to resume working; provided always, that the Collector of Inland Revenue may, in his discretion, remove the locks while repairs are necessarily and actually in progress. The same as to malt-houses. Proviso.

72. The duty herein imposed upon malt shall be finally computed and charged when it is removed from the kiln and an Final computations of duty.

Digitized by Google

an account thereof shall then be entered in the stock books kept under this Act, which shall be balanced on the first day of each half month for the half month next preceding that day, but the duty shall be collected whenever any malt is taken from the malt-warehouse for consumption or for removal; and the duty shall in all cases be collected on the full quantity of malt entered on the warehouse books as having been placed in such warehouse, notwithstanding any deficiency that may arise or be discovered during its delivery or removal therefrom.

Account to be kept in any required form.

73. An account shall also be kept in such other form as may be required by departmental regulation, of all malt placed in the malt-warehouse, and of all malt removed therefrom; and the account shall be taken and recorded at the time of placing such malt in the malt-warehouse, and at the time of removing it therefrom, in a book or books to be kept for that purpose, in such form as may be required by any departmental regulation made in that behalf.

CLAUSES HAVING SPECIAL REFERENCE TO TOBACCO MANUFACTURES.

Packages included in return and on which duty has been paid or secured, to be stamped by Collector.

74. Every package of raw and manufactured tobacco imported into Canada shall be stamped at the port where it enters the Dominion, and every package, box, case, jar, canister, or parcel of tobacco manufactured in Canada and included in any return made to the Collector of Inland Revenue under the requirements of this Act, and upon which the duty has been paid or secured to the Collector by the party making such return, shall be forthwith stamped, by the Collector, in accordance with such regulations as may be from time to time adopted by the Minister of Inland Revenue, and it shall be the duty of every Collector of Customs or Inland Revenue, as the case may be, to stamp, in the manner required, all packages, boxes or parcels upon which he has received duty, or upon which the duty has been secured:

Empty packages with stamps not allowed in tobacco manufactories.

2. No empty or partly filled package, box, jar, canister, barrel or bag of a description such as is used for packing Tobacco, Cigars or Snuff, and having attached to it any stamp or part of a stamp, whether such stamp has been defaced or not, shall be brought into, or remain in any Tobacco Manufactory.

Forfeiture of packages unstamped.

75. Any package of tobacco which shall be exposed or offered for sale or be found in the market without being or having been sealed, stamped, labelled or marked as herein required, shall be deemed to be tobacco unlawfully in the market.

Manufacturer to provide

76. Every manufacturer of tobacco shall provide for the use of the Collector of Inland Revenue, all necessary means, tools and

Digitized by Google

and apparatus for weighing and stamping the products of his manufactory (except dies or stamps), and also a convenient place wherein such process of stamping may be performed.

Means of weighing and stamping, &c.

TIME AND FORM OF RETURNS AND PAYMENT OF DUTIES.

77. For the purposes of this Act, every month in each year shall be divided into the first and second half of the month :

Month divided into two parts.

2. The first half shall be from the first to the fifteenth day of each month both inclusive, and

3. The second half shall be from the sixteenth to the last day of each month both inclusive.

78. All returns, unless when otherwise provided by this Act, shall be made distinct and separate for each half of every month.

Returns for each half month.

79. All returns as to quantities required to be made by this Act, shall be made on the first and sixteenth days of each month for the half month next preceding such days.

Time for making returns.

80. Every person carrying on any business subject to Excise shall render to the Collector of Inland Revenue, or other officer whose duty it is to receive the same, a just and true account in writing extracted from the books kept as herein provided ;

Accounts to be presented to Collector and what to show.

Which account as to Distilleries shall exhibit :—

As to distilleries.

1. The quantity of spirits produced according to each gauge and test taken during the preceding half month, with the strength thereof; and in a separate column, the equivalent quantity of spirits of the strength of proof;

2. The quantity of grain, malt, spirits, beer or wash or other commodity brought into the Distillery during the preceding half month ;

3. The quantity of each kind of grain or other commodity or substance used in the distillery, in the manufacturing of spirits during the said preceding half month ;

4. The quantity of grain malted ;

5. The quantity of grain, malt or other commodity, removed from the distillery or disposed of otherwise than for distillation during the preceding half month ;

6. The quantity of spirits sold or removed from the distillery during the preceding half month ;

7.

Digitized by Google

7. The number and denomination of packages, and the quantity in each, of spirits received into the Distillery during the preceding half month other than that manufactured therein;

8. The quantity of Beer or Wash made and set to ferment on each day of the preceding half month ;

9. The quantity of Beer or Wash fermented and distilled on each day of the preceding half month ;

10. The quantity of spirits entered for Warehouse or,—

11. Entered Ex-Warehouse during the preceding half month;

As to malt-houses.

And as to Malt-houses such account shall exhibit :—

1. The quantity of grain, malt, leguminous seeds or other commodity brought into the Malt-house during the preceding half month ;

2. The quantity of grain or other commodity placed in steep or wetted or used for malting on each day during the preceding half month ;

3. The quantity of malt in bushels and pounds malted or made and removed from the kiln on each day during the preceding half month ;

4. The quantity of Grain or other commodity removed from the Malt-house or disposed of otherwise than for the production of malt, during the preceding half month ;

As to Breweries.

And as to Breweries such account shall exhibit :—

1. The quantity of malt and of each description of vegetable or sacharine matter used in the Brewery ;

2. The quantity of beer or other fermented liquor made in the Brewery ;

As to Tobacco manufactories.

And as to Tobacco Manufactories, such account shall exhibit ;—

1. The quantity of Raw Tobacco and of all other material used in the manufacture of Tobacco, brought into the manufactory during the preceding half month ;

2. The quantity of all Raw Tobacco and other material removed from the manufactory or disposed of otherwise than for the production of manufactured Tobacco during the preceding half month ;—

3.

Digitized by Google

3. The quantity of Raw Tobacco and the quantity of all other material used in the manufacture of Tobacco during the preceding half month in the manufactory to which such return relates;

4. The quantity of each description of tobacco, snuff or cigars manufactured in such manufactory during the preceding half month, shewing the number of packages, the description and the weight and quantity of each package, or the weight in bulk;

5. The quantity of unmanufactured and manufactured tobacco on hand.

And as to Bonded manufactories such account shall exhibit:— As to Bonded manufactories.

1. The quantity of each description of article or commodity brought into the manufactory to which the account relates, on each day during the preceding half month;

2. The quantity of each description of article or commodity used in the production of the manufactured articles made in the manufactory on each day during the preceding half month;

3. The quantity of each description of article or commodity removed from the manufactory or disposed of otherwise than for the production of the articles therein manufactured or made during the preceding half month;

4. The quantity of each description of manufactured article or commodity made or produced on each day during the preceding half month.—

81. Every such statement shall be made for and relate to the half month next preceding the day on which it is made. To be made for each half month.

82. Every account or return rendered as herein provided, shall be made and signed by the person carrying on the business to which it relates or his agent, and shall also be signed by the foreman, clerk, chief workman or other person employed in or about the premises where the business is carried on; and the Collector or any superior officer of Inland Revenue may, at any time after the making of such account or return, require any other person employed about such premises, who, in his opinion, may be best acquainted with the amount of goods produced, subject to Excise, to testify upon oath before him as to the correctness of such account or return. How to be attested. Further attestation may be required.

83. Every such account or statement shall be attested by the persons signing the same by the following oath: Form of attestation.

"I, , do solemnly swear that the account above "written, to which I have also subscribed my name, is true "according to its purport: So help me God."

84.

Digitized by Google

Before whom to be attested.

84. Every such oath shall be made before some Collector of Inland Revenue or other Officer of Inland Revenue, and the Collector or Officer, before whom it is made, or any Superior Officer of Inland Revenue, may, when the account or statement is made or at any time thereafter, put to the person or persons making it such questions as are necessary to the elucidation and full understanding of the account, and for ascertaining whether such person has had the means of knowing the same to be correct; And the Collector or officer aforesaid may also, when the account or statement is made or at any time thereafter, examine under oath any other person or persons employed, or who may at any time have been employed in or about the Distillery, Malt-house, Tobacco Manufactory, or Bonded Manufactory to which such account relates, or any person doing business therewith or selling material thereto or buying goods therefrom, and also any common carrier, agent, clerk or other person who has been concerned in the removal of any such goods or material to or from any Distillery, Malt-house Tobacco Manufactory, or Bonded Manufactory, or in taking or keeping an account of such removals, as to the truth of all such statements, and may reject all such written statements as may be shewn by such evidence to be incorrect or unreliable, and such rejection shall render the party making the return liable to the same penalty as he would be liable to if no return whatever had been made.

Officer may examine certain persons on oath.

Mode of giving notices, delivering returns, &c.

85. All notices, lists, descriptions, returns, statements, accounts and reports required by this Act to be given or made to any person or officer, shall be held to be validly so given or made, if they be received by such person or officer, as the case may be, or if they are left at the usual place of residence of such officer or person, within the period or delay fixed herein in that behalf, without any reference to the mode by which such notice, list, description, account, statements or return was conveyed to such person or officer; and the onus of proof that all such notices, lists, descriptions, returns, accounts, statements and reports have been given or made as herein required shall lie upon the person whose duty it is to give or make them.

When the duties shall be payable.

86. The several duties imposed by this Act shall be due and payable on the sixth and twenty-first of each month, for the quantities of each article or commodity produced or manufactured during the preceding half month respectively, unless another time of payment is herein expressly fixed.

Calculation of duty, and correction of such calculation.

87. The amount of duty shall be calculated on the measurements, weights, accounts, statements and returns, taken, kept or made as herein provided, subject to correction and approval by the Collector of Inland Revenue or other Officer duly authorized thereto; and when two or more methods for determining quantities or the amount of duty to be paid are provided for, that method which yields the largest quantity or the greatest amount of

Digitized by Google

of duty shall be the standard; but if the Collector of Inland Revenue or any superior officer has any reason to doubt the correctness of any statement, account or return, he shall compute the weights, measurements or quantities himself, and levy the duty accordingly; and such computation may be based on any reliable evidence respecting the quantity of material brought into the distillery, malt-house, tobacco manufactory or bonded manufactory, or as to the quantity of the manufactured article removed therefrom, or as to the quantity or strength of any articles used in any of the processes of manufacture; and if the result is disputed, the proof of the error or wrong shall rest with the party who is liable for the payment of the duty.

If the Collector doubts the correctness of any statement, &c.

BONDING OR WAREHOUSING.

88. Spirits, Malt and Tobacco subject to duty under this Act, may be deposited in any suitable warehouse without payment of the duty hereby imposed, subject to the following regulations and to such other regulations as the Governor in Council may make.

Goods subject to Excise duty may be warehoused under regulations.

89. The warehouse shall be provided by the owner of the goods, and shall be in conformity with such departmental regulations as may be from time to time made in that behalf, and upon being surveyed and approved as to security by the Inspecting Officer, shall be secured under the joint locks of the Crown and the proprietor or owner of the goods warehoused.

Warehouse to be provided by owner of goods, and approved.

90. All goods warehoused shall be at the risk of the owner, and if destroyed, or wasted, through the neglect of the owner, the duty shall be payable thereon as if they were entered for consumption.

Goods to be at owner's risk.

91. Bonds shall be taken for twice the amount of duties accruing on the goods.

Amount of bonds.

92. No less quantity of goods shall be removed from the warehouse at any one time than is contained in one package, nor than is subject to the payment of twenty dollars Excise duty.

Not less than one package to be removed.

93. No goods shall remain warehoused for a longer period than two years, and at the end of that time the full amount of duty remaining unpaid shall be collected.

Period of warehousing limited.

94. At the time of entering the goods for warehouse, the amount of duty shall be computed and ascertained and stated in the entry.

Duty to be stated in entry.

95. Except as herein otherwise provided as to malt, goods warehoused under this Act may be transferred in bond from one party to another, and may be exported, ex-warehouse or removed

Transfer of goods in warehouse.

Digitized by Google

removed from one warehouse to another, without payment of duty, under such restrictions and regulations as the Governor in Council may deem necessary.

Quantity, value and packages to be described.

96. When goods are entered for warehouse, the entry shall state the exact quantity and value of goods in each package or parcel, and each package shall be described in the entry paper, and shall also be designated by a distinguishing number.

Packages to be marked.

97. Each package warehoused shall be marked with the entry number, with the date when warehoused, and with the quantity which the package contains.

Stowage of casks.

98. All casks of spirits shall be arranged and stowed in the warehouse so that access may be easily had to each cask, and so that the marks and numbers thereon may be conveniently read or ascertained.

Access to be provided for.

99. All boxes, caddies or packages of tobacco shall be arranged and stowed in warehouse so that access may be easily had to each package, and so that the stamps or other marks thereon may be easily read.

Goods in several entries not to be mixed.

100. Goods warehoused shall be so stowed or arranged that the casks, boxes or packages contained or described in one entry are placed together in separate lots; and in no case shall the casks, boxes or packages contained or described in one entry, be intermixed with those contained or described in another.

To be re-marked and re-stowed in certain cases.

101. Whenever the marks or numbers on any goods in warehouse have been omitted, or have been defaced or otherwise become illegible, or whenever such goods are not stowed or arranged in compliance with the requirements of this Act, the owner of such goods shall, on being required so to do, immediately re-mark or arrange or stow them, as the case may be, to the satisfaction of the Collector of Inland Revenue, or of any officer inspecting the Division; and if the owner of such goods fails to re-mark, arrange or stow them in the manner herein required, for the space of one week after having been required so to do, all such goods shall be forthwith entered for duty ex-warehouse, and the duty thereon collected in accordance with the original warehouse entry.

Duty to be paid on goods taken out.

102. No goods shall be removed from warehouse for consumption unless upon the payment of the full amount of duty accruing thereon; and the duty so paid on Spirits, Malt or Tobacco so taken out of warehouse for consumption, or which shall have directly gone into consumption, shall not be refunded by way of drawback or otherwise upon the exportation of such Spirits, Malt or Tobacco out of Canada.

103.

Digitized by Google

103. Except as herein otherwise provided the Collector or other officer of Inland Revenue or Customs in whose charge goods warehoused under this or any other Act relating to warehousing may be placed, shall refuse all entries ex-warehouse until the owner of such goods or his agent shall have complied with all conditions in respect thereto, which may be required by this or any other Act, or by any regulations made by virtue of this or any other Act.

Entries to be refused until the requirements of this Act are complied with.

104. Any person licensed to manufacture in bond may receive into the place for which his license is granted, as into a Bonded Warehouse, and except as is herein otherwise provided without payment of the duty thereon, all such spirits and other articles as are commonly used in the manufacture of the goods for which the license is granted, on a permit for that purpose to be granted by the Collector of Inland Revenue, in such form and on such bond being entered into and on such conditions as shall be prescribed in any order in Council or departmental regulation in that behalf; but no less quantity of such spirits or other article shall be so received at any one time than might be taken out of bond for consumption.

Dutiable articles used for manufacture in bond may be received by persons so licensed as into a warehouse.

105. The goods so manufactured in bond, shall remain in the place for which the license was granted, in like manner and subject to the like restrictions and to the supervision of the officers of Inland Revenue, as by law provided with respect to other goods manufactured in Canada and subject to Excise,—and the duty thereon shall be paid in like manner within five days of the close of every half month, unless such goods are then exported or warehoused, as they may be, in the manner provided with respect to other goods subject to excise.

Payment of duties on goods manufactured &c.

Unless exported or warehoused.

106. Whenever the Collector of Inland Revenue is satisfied that the quantity of goods manufactured in bond by any person licensed to manufacture in bond as herein provided, and on which the duty has been paid or which have been warehoused or entered for exportation, is such that the quantity of spirits or other article received by such person under any permit granted as aforesaid must have been consumed in the manufacture of such goods, then such Collector shall give a certificate thereof to such person, who shall thereby be discharged from any obligation to pay the duty on such spirits or article;—but if the spirits or other article for which any such permit has been given, remain in the place to which such permit relates longer than six months without such certificate being granted in respect thereof, then such person shall make an ex-warehouse entry, and pay the duty on so much of such spirits or article as shall not be certified to have been so consumed, and such duty shall be held to be a duty of excise and collected and accounted for as such.

Cancelling bond for dutiable articles received, on certain conditions.

Proviso, if not used within six months.

107. All entry papers, either for warehouse, ex-warehouse or for removal, shall be made in such forms, and shall be attested

Forms to be directed by the department.

Digitized by Google

attested by such affidavits, affirmations or declarations, as the Department of Inland Revenue may order.

As to malt warehoused.

108. Malt placed in a malt-warehouse, as herein provided, shall be deemed to be warehoused within the meaning of this Act; but no such malt shall be transferred from one party to another in bond, or removed in bond from one warehouse to another, unless it be otherwise provided by regulation.

Drawback on Beer exported.

109. Any licensed Brewer who shall export any beer or malt liquor of his own manufacture, shall be entitled to receive a drawback thereon equivalent to the duty herein imposed on the malt contained in the beer so exported, and the amount of such drawback shall be in proportion to the strength of the beer, and shall be computed in such manner and by such means as may be from time to time directed by departmental regulations in that behalf: But—

Notice of intent to export must have been given.

2. No such drawback shall be allowed or paid unless the Brewer claiming it shall have given at least two days' notice of his intention to export the beer on which it is claimed, and made such declaration as to the strength thereof as may be required by departmental regulations in that behalf, nor unless the beer shall have been duly inspected and certified by a proper officer of Inland Revenue.

PERMITS.

Conditions on which only spirits may be removed.

110. No spirits shall be removed from the distillery wherein they have been manufactured, nor from any warehouse in which they have been bonded or stored, until the duty on such spirits has been paid or secured by bond in the manner by law required, nor until a Permit for such removal has been granted in such form and by such authority as the Governor in Council may from time to time direct and determine; and any spirits removed from such distillery or warehouse before the duty thereon has been so paid or secured, or before such permit has been granted, shall be seized and detained by any officer of Inland Revenue having a knowledge of the fact, and shall be and remain forfeited to the Crown.

Forfeiture for illegal removal.

Power to detain persons removing spirits unlawfully.

111. Any Officer of Inland Revenue, or Customs, or any Constable or Peace Officer, having general authority therefor from any superior Officer of Inland Revenue, may stop and detain any person or vehicle carrying packages of any kind containing spirits, and may examine such spirits and require the production of a permit authorizing the removal thereof, and if such permit is produced, the Officer shall endorse the time and place of examination thereon; but if no such permit is produced, then such spirits, if the quantity thereof be greater than five gallons, and such officer has cause to believe that they have been unlawfully removed, may be detained until evidence

Forfeiture if no permit.

to

Digitized by Google

to his satisfaction be adduced that such spirits were being lawfully removed, and that the duty thereon had been paid, and if such evidence be not adduced within thirty days, the spirits so detained shall be forfeited to the Crown.

112. Spirits shall not be removed from any distillery between the hours of six o'clock in the afternoon and seven o'clock in the following morning; nor shall any spirits be removed from a distillery at any time in casks or packages containing less than forty wine gallons each; any spirits removed in contravention of this section, shall be forfeited to the Crown, and shall be seized by any Officer of Inland Revenue having a knowledge thereof, and dealt with accordingly.

Hours and conditions of removal.

Forfeiture for contravention.

REGULATIONS BY ORDER IN COUNCIL.

113. The Governor in Council may make such Regulations as to him may seem necessary for the Warehousing of Spirits, Malt or Tobacco, or for dispensing with the prohibition to the removal or transfer Malt in bond, under this Act, or for giving effect to any of the provisions of this Act, and declaring the true intent thereof in any case of doubt, as to him shall seem meet.

Governor in Council may make regulations for warehousing.

114. The Governor in Council may from time to time make such regulations as to him may seem necessary for carrying into effect and enforcing the provisions of this Act respecting the manufacture of goods in bond, or the warehousing of such goods when manufactured, and for declaring the true intent and meaning of such provisions in any case of doubt, and for declaring how far any of the provisions of this Act shall be modified in their application to the manufacture of goods in bond and matters thereunto relating, or for substituting other provisions of the like nature in the place of any of them which cannot in his opinion conveniently be so applied; and may by such regulations require any bond or any oath or affirmation which he shall deem requisite for the purposes aforesaid, and may for breach of such regulations impose any penalty not exceeding five hundred dollars in any case, or the forfeiture of the goods or articles or things in respect of which they shall have been violated; And every such regulation may, by the Governor in Council, be repealed, amended or re-enacted.

And for carrying out this Act.

May require bonds, impose penalties, &c.

Regulations may be repealed, amended, &c.

115. All Regulations, whether Departmental or made by order in Council, made under the provisions of this Act, shall have the force of law, and any infraction, breach or violation of any such regulation, shall subject the holder of a license under this Act, or any other person in the said Regulations mentioned, to such penalty or forfeiture as may by the said regulations be imposed for such offence, and the same shall be enforced in like manner as other penalties and forfeitures imposed by this Act.

Publication and legal effect of Regulations.

Digitized by Google

OFFICERS OF EXCISE, THEIR POWERS AND DUTIES.

Powers of officers of Inland Revenue and Excise.

116. The Commissioner of Inland Revenue or other person acting as Deputy Head of the Department, and every Inspecting Officer of Inland Revenue, or Inspector of Excise, shall have and may exercise in each and every Revenue Division all the powers and rights conferred by this Act on the Collectors of Inland Revenue.

Who shall be such officers.

117. The Inspector of Inland Revenue, and every person appointed under this Act, or employed for the purposes of this Act, or upon whom any duty is imposed by this Act, shall be known as an Officer of Inland Revenue, but,—

Collectors of Inland Revenue.

Officers of Excise.

118. Every Officer of Inland Revenue who is appointed to collect the duties hereby imposed in any defined district or revenue division shall be specially designated as a "Collector of Inland Revenue;" and any officer who is employed or appointed to the survey of manufactures, operations or premises subject to Excise, may also be designated as an "Officer of Excise."

Not to deal in goods subject to Excise.

119. No Officer of Inland Revenue shall directly or indirectly deal or trade in any goods or commodities subject to excise or customs duties.

Power to administer oaths.

120. Every superior and Inspecting Officer, and every Collector of Inland Revenue, with such other officers as may from time to time be designated by the Governor in Council, are hereby empowered and authorized to administer all oaths and receive all declarations required or authorized by this Act.

Power of officers.

121. Every officer of Inland Revenue is hereby empowered and authorized :—

Entry into places where business subject to Excise is carried on.

1. With any assistants acting under him and by his directions, at all times, as well by night as by day, to enter into and remain in, as long as he may deem necessary, any building or place belonging to or used by any person or persons for the purpose of carrying on any trade or business subject to Excise, or in which are any machinery, utensils or apparatus, subject to Excise, or which may be used in the manufacture of goods subject to Excise;

Inspecting apparatus, &c.

2. With any assistants acting under him and by his directions, to inspect any such building or place, and to take such account as he may deem necessary of every part thereof and of all works, vessels, utensils, goods and materials, machinery and apparatus, belonging or in any wise appertaining to such business;

Breaking partitions, &c., to

3. To break up or cause to be broken up or removed any floor, wall, partition, ceiling, roof, door or other part of such building,

Digitized by Google

building, place or premises, or any ground surrounding them, for the purpose of ascertaining whether there is any pipe, worm, still, conduit, tool, vessel, utensil, machinery or apparatus, or any stock, goods, commodity or article subject to Excise concealed or kept out of view; discover hidden apparatus.

4. To examine the worm of any Still or other apparatus used by any Distiller or Bonded Manufacturer, by causing the water to be drawn off from the worm tub or refrigerator containing such worm, at any time when in the opinion of such officer the doing so will not be prejudicial to the working of such Still or other apparatus; or when he may deem it to be necessary to do so for the prevention or detection of fraud: Examining worms of stills, &c.

5. To gauge, measure, weigh, prove, mark, label, stamp, lock, seal or otherwise designate or secure any fermenting tun, mash-tub, cistern, kiln, worm, still, spirit-receiver, pipe, cock, vessel or apparatus, furnace door, machinery or utensil, or any goods, article or commodity subject to Excise, and to close, seal and secure all or any such worms, stills, fermenting tuns, mash tubs, furnace doors and utensils, during the period when the said Distillery, Malt-house, Tobacco Manufactory or Bonded Manufactory is not at work; Gauging vessels, &c. Closing and sealing vessels, &c.

6. To take at any time that he shall see fit, a sample or samples of any Tobacco, Snuff or Cigars unmanufactured or in process of manufacture, or manufactured, in the stock or possession of any Manufacturer of Tobacco, paying for the same if demanded, at the current wholesale price of such Tobacco, Snuff or Cigars; Taking samples of Tobacco manufactured, at wholesale price.

7. To take from any Distillery a sample of beer or wash, or to work the Distillery as herein provided. Taking samples of beer or wash.

122. If any officer of Inland Revenue with any assistants acting under him and by his directions, after having demanded admittance into any Distillery, Malt-house, Tobacco Manufactory, or Bonded Manufactory, or into the premises of a Distiller, Maltster, Tobacco Manufacturer, or Bonded Manufacturer, or into any place or premises subject to Excise, and having declared his name and business at the gate or entrance door or at any window or door of any such Distillery, Malt-house, Manufactory or place, or at the door, window or gate of any building or place forming part thereof, be not immediately admitted into such Distillery, Malt-house, Manufactory or other premises, it shall be lawful for such officer and any person acting in his aid, at all times as well by night as by day (but if by night then in the presence of a Constable or other Peace Officer), to break through any of the doors, windows or walls of such Distillery, Malt-house, Tobacco Manufactory, Bonded Manufactory, or other premises necessary to be broken open or through to enable him and them to enter the said Distillery, Malt-house, Manufactory or other premises aforesaid. Power of officers to enter into premises subject to Excise. By day or night.

Digitized by Google

Power to obtain Search Warrant and make Search.

123. The Collector or other proper Officer of Inland Revenue or any person or persons acting under him or by his directions respectively, having first obtained a Search Warrant for that purpose from some Justice of the Peace, who may grant the same on affidavit made before him and to his satisfaction, and stating reasonable grounds for the issuing thereof, may, at any hour between sun-rise and sun-set, enter into and search any house, building or place mentioned in such Search Warrant, as being one in which affidavit has been made of reasonable cause to suppose that an unlicensed still, worm, mash-tub, cooler, fermenting tun, malt floor or kiln, press, cutting knife, mill or other vessel or implement is illegally in use, or the provisions of this Act otherwise contravened.

License may be suspended for certain contraventions of this Act.

124. The Minister of Inland Revenue may lawfully suspend or revoke the license of a Distiller, Maltster, Tobacco Manufacturer or Bonded Manufacturer, who shall delay, obstruct or prevent, or whose agent or servants shall delay, obstruct or prevent any officer or his assistant in or from entering into a Distillery, Rectifying House, Malt-house, Tobacco Manufactory or Bonded Manufactory, or any house, out-house, store or other place whatsoever of such Distiller, Maltster, Tobacco Manufacturer, or Bonded Manufacturer, or in or from otherwise performing his duty in the execution of any Act relating to the Inland Revenue.

Writ of Assistance may be granted, and by whom.

125. Any Judge of the Court of Queen's Bench or of the Common Pleas in the Province of Ontario, or of the Superior Court or of the Court of Vice Admiralty in the Province of Quebec, or of the Supreme Court in Nova Scotia or of the Court of Queen's Bench in New Brunswick, having jurisdiction in the place where the application is made, shall grant a Writ of Assistance upon application made to him for that purpose by the Collector of Inland Revenue or any Superior officer of Inland Revenue or by Her Majesty's Attorney General for Canada, and such Writ of Assistance, when issued, shall be in force during the whole of the Reign in which the same shall have been granted, and for twelve months from the conclusion of such Reign :

How long to remain in force.

Powers of Officers of Excise under such writ.

Entry and search.

2. Under authority of a Writ of Assistance so granted, any officer of Inland Revenue, or any person employed for that purpose with the concurrence of the Governor in Council, expressed either by special order or appointment or by general regulation, may enter in the night time if accompanied by Peace Officer and in the day time without being so accompanied, any building or other place within the jurisdiction of the Court granting such Writ, and may search for and seize and secure any goods or things liable to forfeiture under this Act, and, in case of necessity, may break open any entrance or other doors, windows or gates and any chests or other packages for that purpose.

126.

Digitized by Google

126. All Justices of the Peace, Mayors, Bailiffs, Constables and all persons, serving under Her Majesty by commission, warrant or otherwise, and all other persons whosoever, shall aid and assist, and they are hereby respectively required to aid and assist every Officer of Inland Revenue in the due execution of any act or thing authorized, required or enjoined by this or any other Act.

Justices of the Peace and others, to assist on being required.

PENALTIES.

127. Any person who, after the passing of this Act, and without having a license under it then in force, shall—

Penalty for exercising any business subject to excise without license.

1. Distil or rectify any spirits ;—or

2. Make any malt or steep any grain for the purpose of malting ;—or

3. Brew any beer or any fermented liquor except for the use of himself or family ;—or

4. Manufacture or prepare for sale or consumption any tobacco or snuff, except tobacco grown by himself and manufactured by him for his own private use ;—or

5. Who, claiming to have grown any tobacco, and manufactured it solely for his own use, shall sell or barter away any tobacco so manufactured ;

Shall forfeit and pay a penalty of two hundred dollars.

128. Any person who shall become subject to the penalty provided for in the next preceding section, shall, in addition thereto, forfeit and pay for the use of Her Majesty double the amount of excise duty and license duty which should have been paid by him under this Act.

Additional penalty.

129. All Grain, Malt, Raw Tobacco and all other material or stock, and all engines, machinery, utensils, worms, stills mash-tubs, fermenting-tuns, tobacco presses or knives, and all spirits, malt, tobacco, snuff, cigars and other manufactured articles, whether completely or partly manufactured which may at any time be found in any distillery, malt-house, brewery, tobacco manufactory, bonded manufactory, or other premises or place where any thing is being done or any working carried on which is subject to Excise and for which a license is required under this Act, but in respect of which no such license has been taken out, shall be seized by any Officer of Inland Revenue having a knowledge thereof, and shall be and remain forfeited to the Crown.

Apparatus and goods found in any place for which no license is taken to be forfeited.

130. Every person, who shall have in his or her possession any still, worm, mash-tub, fermenting tun, malt-floor, malt-kiln,

Penalty on persons having

Digitized by Google

in their possession apparatus for carrying on business subject to Excise without having made a return thereof.

kiln, or any distilling, rectifying, brewing or malting apparatus, or any tobacco press or mill for cutting or grinding tobacco, or any machinery adapted to be used in manufacturing tobacco, without having made a full and particular list, description and return thereof as herein required, shall forfeit and pay a penalty of one hundred dollars, and all such implements, machinery or apparatus shall be seized by any officer of Inland Revenue having a knowledge thereof and shall be and remain forfeited to the Crown.

Penalty for selling or having in possession any package of manufactured Tobacco unstamped.

131. Every person who shall sell or offer for sale or have in his possession any package of tobacco, snuff or cigars upon which no label or stamp has been affixed in compliance with the requirements of this Act, shall forfeit and pay for each such offence a penalty of two hundred dollars; and all tobacco, snuff and cigars so offered or exposed for sale or so unlawfully had in possession, without being stamped or labeled as herein required, shall be and remain forfeited to the Crown, and shall be seized by any Officer of Inland Revenue having a knowledge thereof and dealt with accordingly.

Engines and apparatus on premises in which fraud against the Revenue is committed to be forfeited.

132. Every steam engine, boiler, mill, still, worm, rectifying apparatus, fermenting tun, mash-tub, cistern, couch, machine, vessel, tub, cask, pipe and cock, with the contents thereof, and all stores or stocks of grain, spirits, malt, tobacco, drugs or other material or commodity which may be in any premises or place subject to Excise, when any fraud against the revenue is committed in any such place or premises, or when the owner of any such place, premises, apparatus, goods or commodities, his agent or any person employed by him or any person having lawful possession or controul of such premises, apparatus, goods or commodities, is discovered in the act of committing, or is convicted of committing, any act in or about such place or premises which is declared by this Act to be a misdemeanor or felony, shall be and remain forfeited to the Crown and dealt with accordingly.

Seizure of articles on which duty is not paid.

133. Every article or thing subject to duty under this Act and on which the duty hereby imposed shall not have been paid at the proper time for paying the same, shall be seized by any Officer of Inland Revenue and shall be and remain forfeited to the Crown.

Penalty on Maltster fraudulently putting grain into a cistern.

134. If any Maltster shall add or cause or willingly permit to be added any grain to the grain wet in any cistern, or placed in any cistern for the purpose of being wetted, after the Officer of Inland Revenue shall have taken an account thereof, he shall forfeit for every such offence the sum of five hundred dollars, and all the grain so mixed or added, together with all the grain and malt then in the Malt-house shall be and remain forfeited to the Crown.

142.

Digitized by Google

135. If any Maltster shall remove, or cause or willingly permit to be removed any malt from his malt-house before an account has been taken of the same by the proper officer, and in the manner required by this Act, or if any person shall receive or have any malt so removed and knowing the same to have been so removed, the Maltster or person so offending shall forfeit the sum of five hundred dollars, and the malt so removed shall be forfeited to the Crown and shall be seized by any officer having a knowledge thereof.

Penalty for removing malt before account is taken.

136. Every person who shall put into any packages or casks which have been stamped or branded under this Act, any article or commodity subject to Excise, on which the duty imposed by this Act has not been paid or secured or which has not been inspected as herein required, and every vendor of any package of tobacco or snuff labeled, branded, or sealed, as required by this Act, who shall fail to obliterate or deface such label, brand or seal before delivery to the purchaser, in the manner directed or required by any departmental regulation in that behalf, shall be guilty of a misdemeanor, and shall forfeit and pay for every such offence a penalty of one hundred dollars, and in addition thereto shall be punishable at the discretion of the Court before which the case is tried, by imprisonment for a period of not less than one nor more than twelve months.

Penalty for using stamped or branded packages for goods on which duty is not paid without eflacing such stamp,

Or vending tobacco without defacing label, &c.

137. Every person carrying on any business subject to Excise, or having in his possession any premises machinery, tools, utensils, apparatus or appliances, suitable for carrying on any business subject to Excise, who shall neglect, refuse or omit to make a true and correct return and entry at the time and in the manner required by this Act, or at any time when specially required so to do under the provisions hereof, of all workshops, apartments, utensils, tools, apparatus, machinery or appliances possessed, occupied or used by or for him, or existing in or introduced into or intended to be used in the premises wherein such business is or might be carried on ; or

Penalty for not making proper returns of premises, apparatus, &c.

2. Who shall make use of any still, worm, fermenting tun, mash-tub, cistern, malt-kiln, malt-floor, vessel, utensil, spirit-receiver, fixed or moveable pipe, cock, pump or other appliance or apparatus, or permit any such to be used in his distillery, malt-house, tobacco manufactory or bonded manufactory, which or any of which have not been made known, or reported to the proper officer previous to being so used ; or for the use of which no license has been taken out as herein required ; or

Using apparatus not returned.

3. Who shall make any changes therein or additions thereto without duly notifying the Collector of Inland Revenue or other proper officer ; or

Making changes without notice.

4. Who shall make, cause to be made or permit to exist, any secret, covert, or unusual connection or communication between the

Using secret communications, &c.

Digitized by Google

he several parts or compartments of the premises in which such business is carried on other than are shewn on the return or entry made thereof ; or

Or pipes, &c., not duly returned.

5. Who shall allow any pipes, pumps, cocks, conduits, troughs or other means for conducting fluids or other matter from one part of such premises to another, or from one vessel to another, other than such as are clearly indicated and made known on the returns, models, diagrams or entries made of such premises or vessels or other than have been made known to the proper officer, or other than are permitted to be used by this Act ; or

Using apparatus for purposes not notified.

6. Who shall permit any apparatus, utensils, vessels, pipes, store rooms or compartments of such premises to be used or occupied otherwise than for the purpose for which they have been entered or returned ; or

Refusing to designate uses of vessels, &c.

7. Who shall neglect or refuse to designate in the manner required by this Act, the contents or capacity of, and the purposes to which each vessel, utensil, apparatus, pipe, conduit, store-room, work-shop and compartment of such premises are respectively applied ; or

Refusing to admit Officers.

8. Who shall refuse to admit the Collector or other officer of Inland Revenue or his assistants to the premises or manufactory where any business subject to Excise is carried on, at any hour of the day or night when such business is being carried on, or when any act or thing connected with the carrying on of such business is being performed therein ; or

Or to allow inspection of apparatus.

9. Who shall refuse to admit any officer of Inland Revenue to inspect any place or premises where any grain, stock, commodity, material, utensil or apparatus suitable for carrying on any business subject to Excise is placed or deposited ; or

Deceiving Officers.

10. Who shall do or cause or permit to be done, any thing in or about the premises where such business is carrried on, intended or likely to mislead any officer of Inland Revenue in the discharge of his duty, or to prevent him from ascertaining the true quantity of the products of the business therein carried on and subject to Excise ;

Penalty.

Shall forfeit and pay for every such offence a penalty of five hundred dollars, together with

Further penalty.

A further penalty of one hundred dollars for each and every day upon which such offence has been committed.

Apparatus to be forfeited.

138. Every still, worm, rectifying apparatus, fermenting tun, mash-tub, machinery, vessel, utensil, pipe, cock, pump, trough, conduit, cistern, couch-frame, or apparatus, with all and every matter

Digitized by Google

matter or thing which they may contain, and the contents of every store-room, work-shop, malt-house, kiln, or apartment in respect of which any penalty is incurred under this Act, or which has not been entered, described or returned as herein required, shall be and remain forfeited to the Crown, and shall be seized by any officer of Inland Revenue having a knowledge thereof, and dealt with accordingly.

139. Every person who shall refuse or neglect to aid any officer of Inland Revenue in the execution of any act or duty required by this Act, shall be guilty of a misdemeanor, and on conviction thereof, shall be subject to a penalty of not less than fifty dollars, nor more than one hundred dollars, and shall be also liable to imprisonment in the common Jail for a period not less than three nor exceeding six months. Penalty for refusing to assist officers.

140. Every person carrying on any business subject to Excise who shall fail or neglect or allow any person acting for him or in his employ to fail or neglect,— Penalty for—

2. To keep Stock Books and all such other books as are required to be kept by this Act, or by any regulation made under the provisions of this Act, or by any regulation approved by the Governor in Council, or by the Minister of Inland Revenue or by any departmental regulation in that behalf; or Neglecting to keep books required by this Act, &c.

3. To make true and correct entries therein of all particulars required by this Act or by the said Regulations to be entered in such Books ; or Not making true entries.

4. Who shall in any way alter, or falsify any such entries or make or cause or allow to be made any untrue entry or entries in the said Books ; or Falsifying books.

5. Who shall remove or cause or permit the removal from the said Books of any leaf or leaves or part of a leaf or leaves ; or Removing leaves of Books.

6. Who shall deface or erase or cause or permit to be defaced or erased any entry made therein ; or Defacing Books.

7. Who shall neglect or refuse to make any return or statement, or to give any information or to render any accounts required by this Act ; or Refusing to make any returns, &c.

8. Who shall falsify any such return, statement or account ; or who shall knowingly give false information ; or Falsifying any return, &c.

9. Who shall neglect or refuse to produce any book, account, statement or return herein required to be kept, or any private Books or accounts which may be demanded for the inspection of any duly authorized officer of Inland Revenue, when required so to do during ordinary business hours,— Refusing to produce any Book, &c.

shall

Digitized by Google

Amount of penalty and forfeiture of apparatus.

Shall forfeit and pay for every such offence a penalty of five hundred dollars, together with a further penalty equal to double the amount of license fees, duty or other impost payable under this Act on any Spirits, Malt, manufactured Tobacco, stock, goods manufactured in bond, or materials for manufacturing them ;

And every article or commodity, in respect of which any fraudulent, false, incorrect or imperfect information, entry, return, account or statement has been made or given, or in respect of which any entry, return, account, statement or information has been in whole or in part neglected or refused to be made or given, or in respect of which any entry, return, account or statement has been in whole or in part erased, defaced, removed or destroyed,—

And of stock, &c., in respect of which false return is made or information refused.

And all Spirits, raw and manufactured tobacco, goods or materials, grain, malt, hops, drugs, stock, machinery, utensils, tools, apparatus, articles or commodities, in respect of which any such fraudulent, false or imperfect entry, return, account or information has been made or given, or in respect of which any information, return, entry, or account may have been in whole or in part neglected or omitted, or refused to be made or given, or in respect of which any entry, return, account or statement has been in whole or in part erased, defaced, removed or destroyed,—or which may be found in the Distillery, Malt-house, Tobacco Manufactory, Brewery or Bonded Manufactory, at the time when such false, fraudulent or imperfect information, entry, return, account or statement shall be discovered to have been made or given,—or at the time when it shall be discovered that the giving of any information or the making of any return, entry, statement or account has been in whole or in part neglected,—or at the time when it shall be discovered that any return account or statement has been in whole or in part erased, defaced, removed, or destroyed,—

Shall be seized by any officer of Inland Revenue having a knowledge thereof, and shall be and remain forfeited to the Crown.

Penalty for using beams, scales, weights or measures without inspection.

141. Any person who shall use or cause or permit the using of any beams, scales, weights or measures in or about any Distillery, Malt-house or Tobacco Manufactory, Brewery or Bonded Manufactory, other than such as have been tested and inspected as herein provided and approved by the proper Officer of Inland Revenue,—shall forfeit and pay for every such offence a penalty of two hundred dollars, and a further penalty of fifty dollars for each and every day upon which such offence shall have been committed ; and such beams, scales, weights and measures, shall be seized by any Officer of Inland Revenue having a knowledge thereof, and shall be and remain forfeited to the Crown, and be dealt with accordingly.

Forfeiture.

Digitized by Google

142. If in any distillery there shall at any time be found a close receiver, high wine tub, low wine tub, or doubler, which has been perforated by any hole or aperture, other than such as is necessary for the lawful use of such close receiver, or in contravention of this Act, the Distiller in whose Distillery the close receiver or other vessel so perforated shall be found, although such holes or apertures or perforations have been plugged or stopped, shall be liable to the penalty of five hundred dollars; and the spirit receiver or other vessel, with its contents, together with all the stock of spirits or grain in the Distillery at the time when such unlawful perforation is discovered, shall be and remain forfeited to the Crown.

Penalty for having unlawful perforations in certain vessels.

143. Every person who opens or breaks any lock or seal, or other contrivance attached to any apparatus, vessel, pipe, trough, safe, receiver, meter, pump, cock, room, warehouse or apartment used for the security of the revenue under this Act, or who unlawfully abstracts any Spirits, Malt or Tobacco, goods manufactured in bond, or materials for the manufacture thereof, from any place where they or any of them are retained under the supervision of any Officer of Inland Revenue, or who counterfeits any label, stamp or seal provided for by or under the provisions of this Act, or who in any way perforates any vessel or receiver containing any spirit on which the duties have not been paid, without the knowledge and consent of the Collector of Inland Revenue, shall be guilty of felony.

Breaking the Crown's lock or seal, or abstracting goods, or counterfeiting labels, &c., to be felony.

144. Every person carrying on any business subject to Excise, who shall refuse or neglect—

Penalty for—

2. To render such accounts, statements and returns as are herein required, and at the time herein prescribed; or

Not rendering accounts.

3. To pay over at the proper time the duties and license fees imposed by this Act; or

Not paying duties.

4. To pay over any penalty or forfeiture incurred under this Act; for more than one month after such penalty or forfeiture has been incurred;

Or forfeitures.

Shall by every such refusal or neglect forfeit his license, and it shall thereupon become the duty of the Collector of Inland Revenue to cause a notice of such forfeiture to be forthwith inserted in the *Canada Gazette*, and from and after the insertion thereof, the license shall be null and void, nor shall any new license be granted to such person, nor shall any license be granted to any other person for carrying on any business in the premises occupied by him at the time of his failure to render true accounts and to pay duties or penalties, until he shall have complied with the provisions of this Act,—nor until after such penalty or forfeiture has been satisfied.

License to be forfeited.

No new license except on certain conditions.

145.

Digitized by Google

Obstructing Officers a misdemeanor.

145. Every person who shall obstruct, impede or interfere with any Officer of Inland Revenue, or any person assisting such officer in the discharge of his duty, shall be guilty of a misdemeanor, and on conviction shall be punished by imprisonment for any period not less than six months nor longer than one year.

Assaulting Officers or persons assisting them to be felony.

146. If any person, under any pretence, either by actual assault, force or violence, or by threats of such assault, force or violence, in any way resists, opposes, molests or obstructs any Officer of Inland Revenue, or any person acting in his aid or assistance, in the discharge of his or their duty under the authority of this Act, or wilfully or maliciously shoots at, maims or wounds any Officer of Inland Revenue, or any person acting in his aid or assistance, while employed for the prevention of illicit distillation, brewing, malting or manufacturing, and in execution of his or their duty, or the protection or care of any article or place seized for any contravention or supposed contravention of this Act, such person being convicted thereof, shall be adjudged guilty of felony, and shall be punishable by imprisonment for any period not less than six months nor longer than five years.

Punishment for taking away goods seized or detained.

147. If any person whatever, whether pretending to be the owner or not, either secretly or openly, and whether with or without force or violence, takes or carries away any goods, vessel, carriage or other thing which has been seized or detained on suspicion, as forfeited under this Act, before the same has been declared by competent authority to have been seized without due cause, and without the permission of the officer or person having seized the same, or of some competent authority,—such person shall be deemed to have stolen such goods or thing, being the property of Her Majesty, and to be guilty of felony, and shall be liable to punishment by imprisonment for any period not less than six months nor longer than two years.

Felony.

Penalty on persons refusing to give evidence.

148. Any person refusing or neglecting to appear before any Justice or Justices, or any Court, to give evidence, when summoned, concerning any alleged offence against the provisions of this Act, or who shall refuse or neglect to give evidence when required, before any Officer herein authorized to examine such person, shall, for such refusal or neglect, incur a penalty of one hundred dollars.

Penalty for any contravention of this Act when no other is provided.

149. Every person who shall violate any of the provisions of this Act, or who shall neglect any duty imposed upon him by this Act, for which violation or neglect no penalty is herein specially provided, shall be subject to a penalty of two hundred dollars.

Digitized by Google

PROTECTION OF OFFICERS.

150. No writ shall be sued out against, nor any process served upon any officer of Inland Revenue for any thing done in the exercise of his duty as such officer, until one calendar month after notice in writing shall have been delivered to him, or left at his usual place of abode, by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of any cause of such action shall be produced except of such as shall be contained in such notice, and no verdict or judgment shall be given for the plaintiff, unless he shall prove on the trial, that such notice was given; and in default of such proof, the defendant shall receive in such action a verdict or judgment and costs.

Notice to Officer sued for any thing done in the exercise of his office, and what to contain.

No other cause of action to be proved, &c.

151. Every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in the place or district where the facts were committed; and the defendant may plead the general issue, and give the special matter in evidence; and if the plaintiff shall become non-suited, or shall discontinue the action, or if upon a demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover costs, and have such remedy for the same as any defendant can have in other cases where costs are given by Law.

Action to be brought within three months.

Pleas to such action.

Costs.

152. It shall be lawful for any such officer or person against whom any action shall be brought on account of any such seizure or entry, or of any thing done under the authority of this Act, within one calendar month after such notice, to tender amends to the party complaining or his agent, and to plead such tender in bar to any action, together with other pleas; and if the Court or jury (as the case may be) find the amends sufficient, they shall give a judgment or verdict for the defendant; and in such case, or in case the plaintiff shall become non-suited, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer or otherwise, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only; Provided always, that it shall be lawful for such defendant, by leave of the Court where such action shall be brought, at any time before issue joined, to pay money into Court as in other actions.

Amends may be tendered after notice: effect of such tender.

Costs.

Money may be paid into Court.

153. In any such action, if the Judge or Court before whom such action shall be tried, shall certify upon the record that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than twenty cents damages nor to any costs of suit.

Nominal damages only, if Judge certifies probable cause.

154.

Digitized by Google

No costs to claimant in case of seizure with probable cause certified by Judge, nor more than nominal damages against seizing Officer.

154. In case any information or suit shall be brought to trial or determined, on account of any seizure or entry made under this Act, and a verdict shall be found or decision or judgment given for the claimant, and the Judge or Court before whom the cause shall have been tried or brought shall certify on the record that there was probable cause of seizure or for such entry, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure or entry be liable to any action, indictment, or other suit or prosecution on account of such seizure or entry; and if any action, indictment, or other suit or prosecution, shall be brought to trial against any person on account of such seizure or entry, wherein a verdict or judgment shall be given against the defendant, the plaintiff, if probable cause be certified as aforesaid on the record, besides the thing seized, if a seizure, or the value thereof, shall not be entitled to more than twenty cents damages nor to any costs of suit, nor shall the defendant in such prosecution in such case be fined more than ten cents.

RECOVERY OF DUTIES AND PENALTIES.

Duties recoverable whether account has been rendered or not.

155. Any duties of excise or license duties or fees payable under this Act shall be recoverable at any time after the same ought to have been accounted for and paid, whether an account of the quantity of spirits, malt, tobacco, drugs or other goods or commodities, has or has not been rendered as herein required, or whether a true return of the utensils, tools and apparatus on which such duty or license fees are payable, has or has not been made as herein required; And all such duties and license fees shall be recoverable with full costs of suit as a debt due to Her Majesty, in any Court of competent civil jurisdiction.

As a debt to Her Majesty with full costs.

Recovery of penalties.

156. All penalties and forfeitures, incurred under this Act or any other law relating to Excise, may be prosecuted, sued for and recovered in the Superior Courts of Law, or Court of Vice Admiralty having jurisdiction in that Province in Canada where the cause of prosecution arises, or wherein the defendant is served with process:—And if the amount or value of any such penalty or forfeiture does not exceed five hundred dollars, the same may also be prosecuted, sued for and recovered in any County Court or Circuit Court having jurisdiction in the place where the cause of prosecution arises or where the defendant is served with process.

If not over $500, in County or Circuit Court.

How perishable articles seized may be dealt with.

157. In case of the seizure of any article, the Collector of Inland Revenue for the division in which such seizure has been made, or any Superior Officer of Inland Revenue may sell the same within such delay as to prevent its becoming deteriorated in value, or a part of the value consumed, by reason of the expense of keeping or the decay or waste of the same, as if it had been condemned,—and may keep in his hands the proceeds of such sale until the same has been condemned

Digitized by Google

demned, or deemed to be condemned, or ordered to be restored to any claimant, in which last mentioned case, the Court before which the claim is heard shall order the Collector to pay over to the claimant the proceeds of such sale, in lieu of awarding restitution;

2. Nevertheless the Collector of Inland Revenue or Superior Officer of Inland Revenue aforesaid, may deliver up to any claimant any such article, so seized as aforesaid, upon such claimant depositing in the hands of the Collector or Superior Officer such sum of money as will represent the full value thereof, or giving security to the satisfaction of such Collector or Superior Officer that the value of such seizure and all costs shall be paid to the use of Her Majesty, if such article be condemned. May be given up on security.

158. The burden of proof that the duties of excise have been paid and all the other requirements of this Act complied with, as regards any article of any kind subject to duty under this Act, shall lie upon the parties in whose possession the goods or articles liable to duty may at any time have been before such duties were proved to have been paid or whose duty it was to pay such duties and to comply with such requirements. Burden of proof that duties have been paid, &c.

159. If any stock, steam engine, boiler, still, fermenting tun, machinery, apparatus, vessel or utensil, or other article or commodity be forfeited under the provisions of this Act, for any contravention thereof, they may be seized by the Collector or other officer of Inland Revenue to whom such contravention may become known, or by any other person acting by the authority of such officer, at any time after the commission of the offence for which they are forfeited, and may be marked, detained, removed, sold, or otherwise secured until condemned or released by competent authority, and shall not, while under seizure, be used by the offender, and if condemned, they shall be removed, sold or otherwise dealt with as the Governor in Council may direct. Forfeited apparatus may be seized and secured until condemned.

160. It shall be the duty of the Collector or other officer of Inland Revenue, or any person aiding or assisting him or them in seizing property as forfeited under this Act, to mark and number each separate piece, and to make out a schedule of all the property seized, with the estimated value thereof, which schedule or list shall be dated and signed by the Collector or other Officer, and a true copy thereof shall be given to the person from whom the seizure was made; and another copy, together with the Collector or other officer's report relating to such seizure, shall be transmitted without delay to the Department of Inland Revenue. Schedule to be made by Officer seizing, &c. Copies to be made and for whom.

161. All property seized under any provision of this Act, shall be seized, marked and secured in the name of Her Majesty the To be seized in Her Majesty's name.

Digitized by Google

the Queen, and the power of seizing, marking and securing the same, shall be exercised by direction and under the authority of the Collector of Inland Revenue, or other officer, where and when necessary in order to carry out the provisions of this Act:

Stock in trade and apparatus of the party owing any duties or penalties to be specially liable.

2 And (without any prejudice to the liability of any other property of the debtor or his sureties,) the grain, malt, tobacco, or other materials or stock in trade, from which any goods subject to Excise are or could be wholly or in part made, stills, mash-tubs, vats, fermenting-tuns, engines, water-wheels, tables, presses, and other machinery, implements, articles and utensils, used or capable of being used for making, manufacturing or producing any such goods or preparing any materials therefor, or by means of which any trade, business or employment subject to Excise is or has been or might be carried on, and whether so fixed as to form part of the real or immoveable property or not,—which are on the premises mentioned in the License or in the custody or possession of the party carrying on such trade or business, or in the custody or possession of any factor, agent or other person in trust for or for the use of such party, at the time when any duties become due or any penalty is incurred under this Act,—shall be and remain liable for such duties and for any penalty or forfeiture incurred by the Distiller, Brewer, Maltster, Tobacco Manufacturer or Bonded Manufacturer, on whose premises or in custody or possession of whom or of whose factor or agent or trustee as aforesaid they are, by special and preferential privilege and lien in favour of the Crown, and may be seized and sold in satisfaction of the same under any Warrant of Distress or Writ of Execution, or other process for the recovery thereof, and may be removed by the purchaser, to whomsoever the same might otherwise belong, or into or in whose hands or possession soever the same have passed or are found, and notwithstanding any title or claim to the same or privilege or lien thereon in favour of any other person or party whomsoever,—and shall be liable to forfeiture to the Crown, under the provisions of this Act, for any contravention thereof, and if so forfeited they may be seized by the Collector of Inland Revenue or other officer of Inland Revenue, or any person acting by his authority, at any time after the commission of the offence for which they are forfeited, and marked, detained or secured until condemned or released by competent authority, and shall not, while under seizure, be used by the offender, and if condemned, they shall be removed or sold or otherwise dealt with as the Minister of Inland Revenue may direct.

Notwithstanding any claim or title.

Provision if the same be forfeited.

Notice of seizure to be posted up.

162. So soon as an information has been exhibited in any Court for the condemnation of any goods or thing seized under this Act, notice thereof shall be put up in the office of the Clerk or Prothonotary of the Court, and also in the office of the Collector of Inland Revenue or Chief Officer of Inland Revenue, in the Inland Revenue Division wherein the goods or thing has been secured as aforesaid;

2.

Digitized by Google

2. If the owner or person claiming the goods or thing exhibits a claim to the same and gives security and complies with all the requirements of this Act in that behalf, then the said Court at its sitting next after the said notice has been so posted during one month, may proceed to hear and determine any claim which has been validly made and filed in the meantime, and to the release or condemnation of such goods or thing, as the case requires,—otherwise the same shall, after the expiration of such month, be deemed to be condemned as aforesaid, and may be sold without any formal condemnation thereof;

How claims to the property seized shall be determined.

3. No claim on the behalf of any party who has given notice of his intention to claim before the posting of such notice as aforesaid, shall be admitted, unless validly made within one week after the posting thereof:—nor shall any claim be admitted, unless notice thereof has been given to the Collector of Inland Revenue or superior Officer of Inland Revenue, within one month from the seizure as aforesaid.

Claims to be posted up.

163. All vehicles, goods and other things seized as forfeited under this Act or any other Act relating to Excise, or to trade or navigation, shall be deemed and taken to be condemned, and may be dealt with accordingly, unless the person from whom they were seized, or the owner thereof, do, within one month from the day of seizure, give notice in writing to the seizing Officer, the Collector of Inland Revenue in the Inland Revenue Division in which such goods were seized, or Superior Officer of Inland Revenue, that he claims or intends to claim the same;

Condemnation if not claimed within a certain time.

2. But any Judge having competent jurisdiction to try and determine the seizure, may, with the consent of the Collector of Inland Revenue at the place where the seized articles are secured, or of any Superior Officer of Inland Revenue order the delivery thereof to the owner, on receiving security by bond with two sufficient sureties, to be first approved by such Collector or Superior Officer of Inland Revenue, to pay double the value in case of condemnation,—which bond shall be taken to Her Majesty's use in the name of the Collector or of the Superior Officer of Inland Revenue, and shall be delivered to and kept by such Collector or Superior Officer of Inland Revenue;—And in case such seized articles are condemned, the value thereof shall be forthwith paid to the Collector and the bond cancelled, otherwise the penalty of such bond shall be enforced and recovered.

Goods seized may be delivered up on security.

164. The payment of any penalty or forfeiture incurred under this Act, shall not discharge the party paying the same from the obligation to pay all duties due by such party, and the same shall be paid and may be recovered as if such penalty had not been paid or incurred.

Payment of penalty not to discharge any duty.

Digitized by Google

Recovery of pecuniary penalties, and forfeitures: distress if not paid.

165. The pecuniary penalty or forfeiture incurred for any offence against the provisions of this Act, may be sued for and recovered before any two or more Justices of the Peace, having jurisdiction in the place where the offence was committed, on the oath of two credible witnesses;—And any such penalty may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, under the warrant of such Justice or Justices; or the said Justices may, in their discretion, commit the offender to the Common Gaol, until the penalty, with the costs of the prosecution, shall be paid.

Imprisonment.

Costs may be recovered by Attorney General, &c., in any competent Court.

166. Provided always, that any pecuniary penalty or any forfeiture imposed by this Act, whatever be the amount thereof, may be sued for and recovered with costs, on the oath of any one competent witness in any Court having civil jurisdiction to the amount of such penalty or forfeiture, by Her Majesty's Attorney General, or by any other person or officer thereunto authorized by the proper authority.

Appropriation and division of penalties and forfeitures.

167. All forfeitures and penalties under this Act, after deducting the expenses of prosecution, shall, unless it be otherwise expressly provided, belong to Her Majesty for the public uses of the Dominion,—but the net proceeds of such penalty or forfeiture, or any portion thereof, may be divided between and paid to the Collector of Inland Revenue or Superior Officer of Inland Revenue, by whom the seizure was made, or the information given on which the prosecution was founded, and to any person having given information or otherwise aiding in effecting the condemnation of the goods or thing seized, or the recovery of the penalty, in such proportions as the Governor in Council may in any case or class of cases direct and appoint; but nothing herein contained shall be construed to limit or affect any power vested in the Governor in Council with regard to the remission of penalties or forfeitures by this Act or any other law.

Proviso, as to power of Governor to remit.

Excise Officers, &c., to be competent witnesses.

168. Any Officer of the Customs or of Inland Revenue, or other person employed in the collection of the Revenue, shall be a competent witness in any prosecution or suit under this Act, provided he be not himself the prosecutor or a party to such suit, although he has or believes himself to have some expectation of advantage to himself from the successful termination of such prosecution or suit.

Sums recovered for Her Majesty to form part of Con. Rev. Fund.

169. All sums of money paid or recovered for any penalty or forfeiture under this Act, or any part thereof belonging to Her Majesty, shall be paid to the Receiver General, and shall form part of the Consolidated Revenue Fund of Canada.

As to goods voluntarily abandoned as forfeited or

170. If any article or thing be voluntarily given up or abandoned by the owner to any Collector of Inland Revenue or Superior Officer of Inland Revenue, as forfeited under this Act, or if any

Digitized by Google

any sum of money be voluntarily paid to any such Collector or Officer as the amount of a penalty incurred under this Act, such abandonment or payment shall be held lawful, and such article or thing may be dealt with as if legally condemned, and such sum of money as if legally recovered.

penalties voluntarily paid.

171. For the avoidance of doubt it is hereby enacted, that the Act of the late Province of Canada passed in the session held in the twenty-ninth and thirtieth years of Her Majesty's Reign, intituled: *An Act for the incorporation of the Canada Vine Growers Association*, shall not be construed to empower the corporation thereby created to carry on any distilling operations for the manufacture of brandy, alcohol or other spirits from any wine, dregs, lees or other article to which there has been added any saccharine or vegetable substance or matter except such as is the produce of grapes grown by the said company; and all stills, worms, distilling, fermenting or rectifying apparatus used by or for the said corporation, for the production of spirits, and all operations carried on for the production or rectification of such spirits shall be subject to Excise and to the provisions of this Act as to license and surveillance, in like manner as the operations of distillers are subject to such provisions, except only that spirits distilled or produced exclusively from substances the produce of grapes grown by the said company, shall be exempt from the duty herein imposed on spirits, during the period mentioned in the said Act; and the Governor in Council may from time to time make such regulations and provisions for the survey and supervision of distilling operations carried on by the said corporation, and for causing the said corporation to refund to the government the cost of such supervision, as he may from time to time deem necessary for the security of the Revenue.

Doubts respecting the Canada Vine Growers Association, removed.

Act of Province of Canada, 29, 30 V., c. 121.

CAP. IX.

An Act to impose duties on Promissory Notes and Bills of Exchange.

[*Assented to 21st December*, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Preamble.

1. Upon and in respect of every Promissory Note, Draft or Bill of Exchange, for an amount not less than twenty-five dollars, made, drawn or accepted in Canada, upon or after the first day of February, in the year one thousand eight hundred and sixty-eight, there shall be levied, collected and paid to Her Majesty, for the public uses of the Dominion, the duties hereinafter mentioned, that is to say:—

Duties imposed on Notes, Drafts and Bills.

On each such Promissory Note, and on each such Draft or Bill of Exchange, a duty of one cent, if such Note,

The duties.

Digitized by Google

Bill or Draft, amounts to but does not exceed twenty-five dollars ;—a duty of two cents if the amount thereof exceeds twenty-five dollars but does not exceed fifty dollars,—and a duty of three cents if the amount thereof exceeds fifty dollars but is less than one hundred dollars.

On each such Promissory Note, and on each such Draft or Bill of Exchange, for one hundred dollars or more, executed singly, a duty of three cents, for the first hundred dollars of the amount thereof, and a further duty of three cents for each additional hundred dollars or fraction of a hundred dollars of the amount thereof ;

On each such Draft or Bill of Exchange executed in duplicate, a duty of two cents on each part for the first hundred dollars of the amount thereof, and a further duty of two cents for each additional hundred dollars or fraction of a hundred dollars of the amount thereof ;

On each such Draft or Bill of Exchange executed in more than two parts, a duty of one cent on each part for the first hundred dollars of the amount thereof, and a further duty of one cent for each additional hundred dollars or fraction of a hundred dollars of the amount thereof ;

And any interest made payable at the maturity of any Bill, Draft or Note, with the principal sum, shall be counted as part of the amount thereof.

What shall be deemed instruments liable to duty.

2 Every bill, draft, order or instrument,—

For the payment of any sum of money by a bill or promissory note, whether such payment be required to be made to the bearer or to order,—

Every document usually termed a letter of credit, or whereby any person is entitled to have credit with, or to receive from or draw upon any person for any sum of money,—

And every receipt for money, given by any bank or person, and entitling the person paying such money, or the bearer of such receipt, to receive the like sum from any third person,—

Shall be deemed a bill of exchange or draft chargeable with duty under this Act.

Exemptions from duty

3. Every bill of exchange, draft or order drawn by any officer of Her Majesty's Commissariat, or by any other officer in Her Majesty's Imperial or Provincial Service, in his official capacity,or any acceptance or endorsement by such officer on a bill of exchange drawn out of Canada, or any draft of or on any Bank payable to the order of any such officer in his official capacity as aforesaid, or any note payable on demand to bearer issued by any Chartered Bank in Canada, or by any Bank issuing such note under the Act, chapter fifty-five of the Consolidated Statutes of the late Province of Canada, intituled: *An Act respecting Banks and freedom of Banking*, shall be free from duty under this Act,—and

any

Digitized by Google

Any cheque upon any Chartered Bank or Licensed Banker, or on any Savings Bank, if the same shall be payable on demand,—

Any post office money order, or order on any post office Savings Bank,—and

Any municipal debenture or coupon of such debenture,—shall be free of duty under this Act.

4. The duty on any such Promissory Note, Draft, Bill of Exchange or part thereof, shall be paid by making it upon paper stamped in the manner hereinafter provided, to the amount of such duty,—or

How the duties shall be paid.

Stamped paper.

By affixing thereto an adhesive stamp or adhesive stamps of the kind hereinafter mentioned, to the amount of such duty, upon which the signature or part of the signature of the maker or drawer, or in the case of a Draft or Bill made or drawn out of Canada of the acceptor or first indorser in Canada, or his initials, or some integral or material part of the instrument shall be written, so as (as far as may be practicable) to identify each stamp with the instrument to which it is attached, and to show that it has not before been used, and to prevent its being thereafter used for any other instrument,—or

Adhesive stamps.

Provision for cancelling adhesive stamps.

The person affixing such adhesive stamp, shall, at the time of affixing the same, write or stamp thereon the date at which it is affixed, and such stamp shall be held *primâ facie* to have been affixed at the date stamped or written thereon ;

Or date to be written on Stamp.

And if no integral or material part of the instrument, nor any part of the signature of the maker, drawer, acceptor or first indorser in Canada be written thereon, nor any date be so stamped or written thereon, or if the date do not agree with that of the instrument, such adhesive stamp shall be of no avail ; and any person wilfully writing or stamping a false date on any adhesive stamp shall incur a penalty of one hundred dollars for each such offence.

Penalty for non-compliance with this Act.

Avoidance of Instrument.

5. The Governor in Council may from time to time direct stamped paper to be prepared for the purposes of this Act, of such kinds and bearing respectively such device as he thinks proper, and may defray the cost thereof out of any unappropriated monies forming part of the Consolidated Revenue Fund ; but the device on each stamp shall express the value thereof, that is to say, the sum at which it shall be reckoned in payment of the duties imposed by this Act.

Stamped paper may be prepared and used.

6. The Governor in Council may from time to time direct stamps to be prepared for the purposes of this Act, of such kinds and bearing respectively such device as he thinks proper, and may defray the cost thereof out of any unappropriated moneys forming part of the Consolidated Revenue Fund ; but the device

Or adhesive stamps.

Digitized by Google

device on each stamp shall express the value thereof, that is to say, the sum at which it shall be reckoned in payment of the duties hereby imposed.

As to duty payable in Nova Scotia.

7. Provided, that as regards any Promissory Note, Draft or Bill of Exchange on which the duty is payable in Nova Scotia, the amount on which the duty is payable under this Act, and the amount of such duty, shall be reckoned in the currency of that Province, and the stamped paper and stamps to be used there shall be marked accordingly, and shall not be used in any other part of Canada.

Sale and distribution of stamps and stamped paper.

8. The Minister of Inland Revenue may appoint any Postmasters, Collectors of Inland Revenue, or other officers of the Government, to be the distributors of stamps and stamped paper, under this Act, and may authorize any other persons to purchase stamps from such distributors to sell again;—and the Governor in Council may fix the remuneration to be allowed to such distributors, and the discount to be made to persons so purchasing to sell again; but such discount shall in no case exceed five per cent. on the value of such stamps, and shall not be allowed on any quantity less than one hundred dollars worth.

Governor in Council may make further regulations, to provide for doubtful cases.

9. The Governor in Council may make such further regulations as he may deem necessary for carrying this Act into effect, and may by any order in Council declare that any kind or class of instruments as to which doubts may arise, are or are not chargeable with any and what duty under this Act according to the true meaning thereof; and any order in Council made under this Act may be explained, amended or repealed by any other such order of later date; and any order in Council under this Act shall be published, and may be proved in the manner provided by the Act respecting the Customs as to orders in Council under that Act.

By whom the stamps shall be affixed.

10. The stamp or stamps required to pay the duty hereby imposed shall in the case of any Promissory Note, Draft or Bill of Exchange made or drawn within Canada, and not made upon paper stamped to the amount of the duty, be affixed by the maker or drawer thereof, and in the case of any Draft or Bill of Exchange drawn out of Canada, by the acceptor thereof or the first indorser thereof in Canada; and such maker or drawer, acceptor or first indorser, failing to affix such stamp or stamps at the time of making, drawing, accepting or indorsing such Note, Draft or Bill, or affixing stamps of insufficient amount shall thereby incur a penalty hereinafter imposed, and the duty payable on such instrument, or the duty by which the stamps affixed fall short of the proper amount, shall be doubled; stamps upon the paper being deemed to be affixed thereto for all the purposes of this Act; and any deficiency in the amount of the stamp on the paper may be made up by adhesive stamps.

Penalty in default and duty doubled.

11.

Digitized by Google

11. If any person in Canada makes, draws, accepts, indorses, signs, becomes a party to or pays any promissory note, draft or bill of exchange, chargeable with duty under this Act, before the duty (or double duty as the case may be) has been paid by affixing thereto the proper stamp or stamps, such person shall thereby incur a penalty of one hundred dollars, and save only in case of the payment of double duty as hereinafter mentioned, such instrument shall be invalid and of no effect in law or in equity, and the acceptance or payment or protest thereof shall be of no effect; except that any subsequent party to such instrument or person paying the same, may at the time of his so paying or becoming a party thereto, pay such double duty by affixing to such instrument a stamp or stamps to the amount thereof, or to the amount of double the sum by which the stamps affixed fall short of the proper duty, and by writing his signature or part thereof, or his initials or the proper date, on such stamp or stamps, in the manner and for the purposes mentioned in the fourth section of this Act; and such instrument shall thereby become valid, but no prior party who ought to have paid the duty thereon shall be released from the penalty by him incurred as aforesaid; and in suing for any such penalty, the fact that no part of the signature of the party charged with neglecting to affix the proper stamp or stamps is written over the stamp or stamps affixed to any instrument, or that no date, or a date that does not correspond with the time when the duty ought to have been paid, is written or marked on the stamp or stamps, shall be *primâ facie* evidence that such party did not affix it or them as required by this Act.

Penalty for not affixing the proper stamps.

Exception in favor of subsequent parties: double duty to be paid.

Presumption in suits for penalties.

12. No party to or holder of any Promissory Note, Draft, or Bill of Exchange, shall incur any penalty by reason of the duty thereon not having been paid at the proper time and by the proper party or parties, provided that at the time it came into his hands it had affixed to it stamps to the amount of the duty apparently payable upon it, that he had no knowledge that they were not affixed at the proper time and by the proper party or parties, and that he pays the double duty or additional duty as soon as he acquires such knowledge,—and any holder of such instrument may pay the duty thereon, and give it validity, under section eleven of this Act, without becoming a party thereto;—In this section the word "duty" includes any double or additional duty payable under the said section eleven.

Provision in favor of innocent parties.

Holder may pay duty without becoming a party.

13. If any person wilfully affixes to any promissory note, draft or bill of exchange, any stamp which has been previously affixed to any other, or used for the purpose of paying any duty under this Act or any other Act, or which has been in any way previously written upon or defaced, such person shall be guilty of a misdemeanor, and shall thereby incur a penalty of five hundred dollars.

Penalty for affixing stamps already used.

14. The penalties hereinbefore imposed shall be incurred in respect of each such promissory note, draft or bill of exchange, on

Penalty incurred on each instrument, tho'

Digitized by Google

several be made on the same day, &c.

on which the duty or double duty hereby imposed is not paid as aforesaid, or to which a stamp previously used has been fraudulently affixed, whatever be the number of such instruments executed, accepted, paid or delivered, or offences committed on the same day; and a separate penalty to the full amount shall be incurred by each person committing such offence, whatever be the number of such persons.

Recovery of penalties.

15. The penalties imposed by the foregoing sections of this Act, shall be recoverable in the manner prescribed by the Interpretation Act in cases where penalties are imposed and the recovery is not otherwise provided for.

Punishment for forging stamps, or making or having instruments for forging.

16. If any person forges, counterfeits or imitates or procures to be forged, counterfeited or imitated, any stamp or stamped paper, issued or authorized to be used for the purposes of this Act, or by means whereof any duty hereby imposed may be paid, or any part or portion of any such stamp,—or knowingly uses, offers, sells or exposes to sale, any such forged, counterfeited or imitated stamp,—or engraves, cuts, sinks or makes any plate, die or other thing whereby to make or imitate such stamp or any part or portion thereof, except by permission of the Minister of Inland Revenue, or some officer or person who, under an Order in Council in that behalf, may lawfully grant such permission—or has possession of any such plate, die or other thing, without such permission,—or, without such permission uses or has possession of any such plate, die or thing lawfully engraved, cut or made,—or tears off or removes from any instrument, on which a duty is payable under this Act, any stamp by which such duty has been wholly or in part paid,—or removes from any such stamp any writing or mark indicating that it has been used for or towards the payment of any such duty,—such person shall be guilty of felony, and shall on conviction be liable to be imprisoned in the Penitentiary for any term not exceeding twenty-one years; and every such offence in the Province of Quebec or in the Province of Ontario, shall be forgery within the meaning and purview of chapter ninety-four of the Consolidated Statutes of Canada, intituled: *An Act respecting Forgery*, and all the provisions of that Act shall apply to every such offence, and to principals in the second degree and accessories, as if such offence were expressly mentioned in the said Act, and in any other of the Provinces composing the Dominion of Canada every such offence shall be forgery and punishable in the manner in which that crime is punishable by the laws of the Province in which the offence is committed.

Offence to be within the lands relative to forgery.

Duties to be within the Revenue Act.

17. The duties imposed by this Act shall be duties within the meaning and purview of the Act passed in the present Session intituled: *An Act respecting the collection and management of the Revenue, the auditing of Public Accounts and the liability of Public Accountants*, and the proceeds of the said duties shall form part of the Consolidated Revenue Fund of this Province.

18.

Digitized by Google

18. No duty shall be payable under the Act of the Legislature of the late Province of Canada, passed in the Session held in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, chapter four, or under the Act of the said Legislature, passed in the twenty-ninth years of Her Majesty's Reign, chapter four, on any Promissory Note, Draft or Bill of Exchange made, drawn or accepted, upon or after the said first day of February one thousand eight hundred and sixty-eight, but to all Promissory Notes, Drafts or Bills of Exchange made, drawn or accepted in the late Province of Canada, or in the Provinces of Quebec or Ontario, before the said day, and to all offences committed and penalties incurred in respect thereof, the said Acts shall continue to apply.

No duty under certain Canadian Acts, on notes &c., made &c., on or after 1st February, 1868.

Acts to apply to notes, &c., made before that day.

CAP. X.

An Act for the regulation of the Postal Service.

[*Assented to 21st December*, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

PRELIMINARY—INTERPRETATION.

1. This Act shall be known and may be cited as *The Post Office Act* 1867; and the following terms and expressions therein shall be held to have the meaning hereinafter assigned to them, unless such meaning be repugnant to the subject or inconsistent with the context:

Short Title.

Interpretation.

The term "Letter" includes Packets of Letters;

Letter.

The term "Postage" means the duty or sum chargeable for the conveyance of Post Letters, Packets and other things by Post;

Postage.

The term "Foreign Country" means any country not included in the dominions of Her Majesty;

Foreign Country.

The term "Foreign Postage" means the postage on the conveyance of Letters, Packets or other things, within any Foreign Country or payable to any Foreign Government;

Foreign Postage.

The term "Canada Postage" means the postage on the conveyance of Letters, Packets and other things by Post within the Dominion of Canada or by Canada Mail Packet;

Canada Postage.

The term "Mail" includes every conveyance by which Post Letters are carried, whether it be by land or by water;

Mail.

The

Digitized by Google

British Packet Postage.

The term "British Packet Postage" means the postage due on the conveyance of letters by British Packet Boats, between the United Kingdom and British North America;—And the term "British Postage" includes all Postage not being Foreign, Colonial or Canadian;

Employed in the Canada Post Office.

The expression "employed in the Canada Post Office" applies to any person employed in any business of the Post Office of Canada;

Post Letter.

The term "Post Letter" means any letter transmitted or deposited in any Post Office to be transmitted by the Post;—And a letter shall be deemed a Post Letter from the time of its being so deposited or delivered at a Post Office, to the time of its being delivered to the party to whom it is addressed, and a delivery to any person authorized to receive letters for the Post, shall be deemed a delivery at the Post Office; and a delivery of any letter or other mailable matter at the house or office of the person to whom the letter is addressed, or to him, or to his servant or agent, or other person considered to be authorized to receive the letter or other mailable matter, according to the usual manner of delivering that person's letters, shall be a delivery to the person addressed;

Mailable Matter.

The term "Mailable Matter" includes any letter, packet, parcel, newspaper, book or other thing which by this Act or by any Regulation made in pursuance of it, may be sent by Post;

Post Letter Bag.

The term "Post Letter Bag" includes a Mail Bag or Box, or Packet or Parcel, or other envelope or covering in which mailable matter is conveyed, whether it does or does not actually contain mailable matter;

Any Post Office.

The term "any Post Office" means any building, room, street letter box, receiving box or other receptacle, or place where Post Letters or other mailable matter are received or delivered, sorted, made up or dispatched;

Valuable Security.

The term "Valuable Security" includes the whole or any part of any tally, order or other security or document whatsoever entitling or evidencing the title of any party to any share or interest in any Public Stock or Fund, whether of Canada, or of the United Kingdom, or of any British Colony or Possession, or of any Foreign Country, or in any Fund or Stock of any Body Corporate, Company or Society in Canada or elsewhere, or to any deposit in any Savings' Bank, or the whole or any part of any Debenture, Deed, Bond, Post Office Money Order, Bank note, Bill, Note, Cheque, Warrant or order or other security for the payment of money, or for the delivery or transfer of any goods, chattels or valuable thing, whether in Canada or elsewhere;

And

Digitized by Google

And the term "between" when used with reference to the transmission of letters or other things, applies equally to such transmission from either place to the other. Between.

2. All Laws in force in the Provinces of Canada, Nova Scotia or New Brunswick, at the Union thereof on the first of July one thousand eight hundred and sixty-seven, in respect to the Postal Service, and continued in force by the "British North America Act 1867," shall be and the same are hereby repealed, except as to any act done or performed in virtue of the same and except in respect of any postage duties which may have become payable under the same or any proceedings for the recovery of such duties, and except also as to any offence committed against the provisions of the said Laws hereby repealed, and any Fine or Penalty incurred by reason of any such offence, or any proceeding for the recovery of any such Fine or Penalty or for the punishment of any offender. Repeal of Provincial Laws.

3. Except in so far as it may be otherwise provided in any case by the proper authority under this Act, or any other Act of the Parliament of Canada,—all Post Offices and Postal Divisions, Stations, Districts and Establishments in Canada, and all commissions or appointments of any officers or persons employed in managing the said Posts and Post Communications, or in collecting or accounting for Postage duties and dues, in force at the time when this Act comes into force, shall continue and remain in force, and the nature of the duties and local extent of the powers of each Office, and the salary and emoluments of the Officer, shall remain the same as if such commissions or appointments had been granted or made under the authority of this Act, subject always to the provisions hereinafter made. Provisional continuance of existing Post Office arrangements, Commissions and appointments.

4. And all bonds given by such Officers or persons or their sureties, and all contracts, agreements or engagements made by any party with or to any such Officer or person, shall remain in full force and effect, and shall be construed and have effect to all intents and purposes as if made and entered into with express reference to this Act and for the performance of the duties which under this Act may be lawfully assigned to or discharged by such Officers and persons respectively;—And any contract for the conveyance of Her Majesty's Mails or for any other service to be performed with reference to the Post Office, shall be construed as a contract for the conveyance of Her Majesty's Mails under this Act, and for the performance of the services therein contracted for, for Her Majesty's Canada Post Office, and the fulfilment of such contract may be enforced accordingly under this Act, payment for such services being made out of Canada Funds, but performance otherwise according to the terms of such contract. Existing bonds, contracts, &c., to continue in force. Construction of contracts for conveyance of Mails.

5.

Digitized by Google

Regulations, &c., to remain in force, until abrogated under this Act.

5. And every regulation and departmental order not inconsistent with this Act and not providing for a matter for which provision is made by this Act, made by any then competent authority, to guide or direct such Officers or persons in the performance of their duties, or to confer, define or regulate their powers and the exercise thereof, shall remain in full force and effect, unless and until such regulation or order is abrogated or provision is made in the like matter by some regulation or order made by competent authority under this Act.

Application of Revenue Management Act, to Postal matters.

6. Any Act of the Parliament of Canada *respecting the Collection and Management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants*, shall apply to the said Posts and Post Communications, and to the Officers and persons employed in managing the same, or in collecting or accounting for the duties and dues aforesaid, except in so far as any provision of such Act is not susceptible of such application or is inconsistent with any provision of this Act.

ORGANIZATION AND GENERAL PROVISIONS.

Post Office Department.

7. There shall be at the Seat of Government of Canada a Post Office Department for the superintendence and management of the Postal Service of Canada, under the direction of a Postmaster General.

Postmaster General.

8. The Postmaster General shall be appointed by Commission under the Great Seal of Canada, and shall hold his office during pleasure.

Governor to appoint certain Postmasters.

9. The Governor may appoint all Postmasters in cities and towns having salaries.

Powers of Postmaster General.

10. The Postmaster General may, subject to the provisions of this Act:

Post Offices and Routes.

1. Establish and close Post Offices and Post Routes;

Postmasters.

2. Appoint Postmasters, other than those to be appointed by the Governor, and other Officers and Servants, and remove or suspend any Postmaster or other Officer or Servant of the Post Office;

Mail contracts.

3. Enter into and enforce all contracts relating to the conveyance of the Mails, or other business of the Post Office;

Mailable matter.

4. Make regulations declaring what shall and what shall not be deemed to be mailable matter for the purposes of this Act, and for restricting within reasonable limits the weight and dimensions of letters and packets and other matters sent by Post and for prohibiting and preventing the sending of explosive, dangerous, contraband or improper articles, obscene or immoral publications;

5.

Digitized by Google

5. Establish the rates of Postage on all mailable matter, not being letters, newspapers or other things hereinafter specially provided for, and prescribe the terms and conditions on which all mailable matter not being letters, shall in each case or class of cases be permitted to pass by Post, and authorize the opening thereof, for the purpose of ascertaining whether such conditions have been complied with; Rates on mailable matter, not otherwise provided for

6. Cause to be prepared and distributed Postage Stamps, necessary for the prepayment of Postages under this Act, also stamped envelopes for the like purpose; Postage Stamps.

7. Make and give effect to any arrangements which may require to be made with the Government or with the postal authorities of the United Kingdom, or of any British Possession, or of the United States, or any other Foreign Country, with regard to the collecting and accounting for postage, the transmission of mails, and other matters connected with Posts and Postal business, and the remuneration or indemnity to be paid or received under any such arrangement; Arrangements with Postal authorities out of Canada.

8. Make arrangements for refunding such postage as may from time to time be paid by Her Majesty's Military or Naval authorities on official correspondence passing between the several stations of Her Majesty's Military and Naval Forces in Canada; Refunding postage on H. M. Military or Naval Service.

9. Make orders and regulations concerning the Money Order system and the issuing and paying of Post Office Money Orders in Canada, and when he may deem it expedient arrange for the exchange of such Money Orders with any British Possession or Foreign Country on such terms and conditions as he may agree upon, and as may be set forth in the regulations relating to the same, and all orders, and regulations so made by him shall be binding and conclusive upon the persons in favor of whom such Money Orders shall be issued, and the payees thereof and all persons interested through or claiming under them and upon all other persons whomsoever; Post Office Money Orders.

10. Make and alter rules and orders for the conduct of and management of the business and affairs of the Department, and for the guidance and government of the Postmasters and other officers and servants of the Post Office in the performance of their duties; Departmental Rules and Orders.

11. Prescribe and enforce such Regulations as to letters directed to be registered as to him may seem necessary, in respect to the registration of letters and other matter passing by Mail, as well between places in Canada, as between Canada and the United Kingdom, any British Possession, the United States or any other Foreign Country, and to the charge to be made for the same; and also in respect to the registration by the officers Registration of letters.

Digitized by Google

officers of the Post Office of letters unquestionably containing money or other valuable enclosure when posted without registration by the senders of the same, and to imposing a rate of two cents registration charge upon such letters.

Question as to periodicals, &c.

12. Decide all questions which may arise as to what shall be deemed to be a letter or letter packet, newspaper, periodical, or other article of mailable matter, admitted to pass by Post under this Act, and as to the rate of postage to which it may consequently be liable;

Suits for postage, &c.

13. Sue for and recover all sums of money due for postage or for penalties under this Act or under any Act of the Provinces of Canada, Nova Scotia or New Brunswick, or by any Postmaster or his Sureties;

Street letter boxes, &c.

14. Establish and provide Street Letter Boxes or Pillar Boxes or Boxes of any other description for the receipt of letters and such other mailable matter as he may deem expedient, in the streets of any City or Town in Canada, or at any Railway Station or other public place where he may consider such Letter Box to be necessary;

Sale of stamps.

15. Grant licenses revocable at pleasure, to Agents other than Postmasters, for the sale to the Public of Postage Stamps and stamped Envelopes, and allow to such Agents a commission of not exceeding five per cent on the amount of their sales;

Penalties for contravention of Regulations.

16. Impose, with the approval of the Governor in Council, pecuniary penalties not exceeding two hundred dollars for any one offence on persons offending against any such regulation as aforesaid, whether they be or be not officers of the Post Office;

General purposes.

17. And generally to make such regulations as he deems necessary for the due and effective working of the Post Office and Postal business and arrangements, and for carrying this Act fully into effect;

Amending or repealing regulations.

18. And every such regulation as aforesaid may from time to time be repealed or amended by any subsequent regulation made in like manner;—And every such regulation shall, until it be otherwise ordered by any subsequent regulation, have force and effect as if it formed part of the provisions of this Act, unless it be inconsistent with the enactments thereof.

Publication, commencement, duration and evidence of regulations made by the

11. Any general regulation made by the Postmaster General under this Act, other than those made solely for the guidance and government of the officers or other persons employed in the Postal service, which may be communicated by Department Order, or otherwise as the Postmaster General may see fit, shall have

Digitized by Google

have effect from and after the day on which the same shall have been published in the Official Gazette, or from and after such later day as may be appointed for the purpose in such regulation, and during such time as shall be therein expressed, or if no time be expressed for that purpose, then until the same is revoked or altered; and every such regulation may be revoked, varied or altered by any subsequent regulation; and a copy of the Official Gazette containing any such regulation shall be evidence of such regulation to all intents and purposes whatsoever. Postmaster General.

12. And any bond or security required or authorized by any such regulation or by any order of the Postmaster General, in any matter relative to the Post Office, or to the observance of any provision of this Act or any regulation or order made under it, shall be valid in law and may be enforced according to its tenor on breach of the condition thereof. Bonds, &c., to be valid.

13. No Regulation made under this Act, shall be inconsistent with the express provisions thereof. Regulations to conform to Act.

14. The Governor may from time to time, appoint fit and proper persons to be and to be called Post Office Inspectors, and to be stationed at such places and to exercise their powers and perform their duties and functions within such limits respectively as he may from time to time appoint; Post Office Inspectors.

2. And it shall be the duty of such Post Office Inspectors, under such instructions as may from time to time be given to them by the Postmaster General,—to superintend the performance of the Mail service, taking care that, as far as the state of the roads and other circumstances will permit, the stipulations of all contracts for the conveyance of the Mail are strictly complied with by the Contractors,—to make monthly reports to the Postmaster General of the manner in which the Mail has been carried on each route, stating what fines they recommend should be imposed,—to instruct new Postmasters in their duties,—to keep the Postmasters to their duty in rendering their accounts and paying over their balances,—to examine at every Post Office from time to time the Books of Mails received at and sent from the same, and to see that they are properly kept, and that the Received Bills are properly numbered and filed, and that the Postmasters and their Assistants perfectly understand their instructions, and perform their duty well in every particular,—to inquire into complaints of losses of valuable Letters,—and generally to do all and whatsoever they are from time to time lawfully instructed or required by the Postmaster General to do for the service of the Post Office Department. Their duties.

15. The Governor in Council may appoint a proper person to be Deputy Postmaster General, to hold office during pleasure, and the said Deputy Postmaster General shall have the Deputy Post-Master General.

Digitized by Google

the oversight and direction of the other Officers, Clerks and messengers or servants, and of all persons employed in the postal service, and shall have, under the Post Master General, the general management of thebusiness of the Department, and his directions shall be obeyed in like manner as the directions of the Postmaster General would be, subject however to the control of the latter in all matters whatsoever.

Remuneration of Officers.

16. Each officer, clerk or servant employed in or by the Post Office Department shall be remunerated by a stated salary or pay, to be fixed by the Post Master General, subject to the provisions of any Act relating to the Civil Service.

No allowance or compensation for extra service.

17. No allowance or compensation shall be made to any Clerk or other Officer in the Post Office Department, by reason of the discharge of duties which belong to any other Clerk or Officer in the same Department.—And no allowance or compensation shall be made for any extra service whatever which any such Clerk or Officer may be required to perform.

Delivery of money or property lost or stolen from the Mails when recovered.

18. It shall be lawful for the Post Master General, to pay over and deliver to such person or persons as he may consider to be the rightful owner or owners thereof, upon satisfactory evidence of claim, any sum of money, or other property stolen or lost from the mails, which may be by the Post Master General, recovered from the thief or thieves, or may otherwise come into his possession.

RATES OF POSTAGE.

Rates of postage on letters.

19. On all letters transmitted by Post for any distance within Canada, except in cases herein otherwise specially provided for, there shall be charged and paid one uniform rate of three cents per half ounce in weight, any fraction of an ounce being chargeable as a half ounce, provided that such three cents postage rate be prepaid by postage stamp or in current coin at the time of posting such letters; and when such letters are posted without prepayment being made thereon, then and in such case it shall be lawful to charge upon letters so posted unpaid a rate of five cents per half ounce.

On local or drop letters.

20. On letters not transmitted through the mails, but posted and delivered at the same Post Office, commonly known as local or drop letters, the rate shall be one cent, to be in all cases prepaid by postage stamps affixed to such letters.

Of letters to or from Seamen or Soldiers in or H. M. Service.

21. In every case in which any Seaman in Her Majesty's Navy, or Sergeant, Corporal, Drummer, Trumpeter, Fifer or Private Soldier in Her Majesty's service, is entitled to receive or send letters on the payment of a certain sum and no more, in place of all British Postage thereon, the payment of such sum

Digitized by Google

sum shall likewise free such letter from all Canada Postage thereon :

2. And in all cases in which a letter addressed to a Commissioned Officer of the Army, or Navy, or of any of the departments belonging thereto respectively, at a place where he has been employed on actual service, would be free from British Postage on the transmission thereof from such place to any place to which he has removed in the execution of his duty, before the delivery of such letter or packet, the same shall in like manner be free from Canada Postage ;—And the Postmaster General may make such regulations declaratory and otherwise, as may be necessary for giving effect to this section.

Or to commissioned officers, in army or navy, &c.

22. The rate of postage upon newspapers printed and published in Canada, and issued not less frequently than once a week, from a known office of publication, and sent to regular subscribers in Canada by mail, shall be as follows : upon each such newspaper, when issued once a week, the rate for each quarter of a year, commencing on the first of January, first of April, first of July, or first of October of each year, shall be five cents, when issued twice a week, ten cents, when issued three times a week, fifteen cents, when issued six times a week, thirty cents, and in that proportion, adding one rate of five cents for each issue more frequent than once a week ; and such postage must be pre-paid in advance from the first day of the quarter from which the payment commences, for a term of not less than a quarter of a year ; and such pre-payment may be made at either the office of Mailing or Delivery, at the option of the publisher or subscriber ;—provided nevertheless, that *Exchange Papers*, addressed by one editor or publisher of a newspaper to another editor or publisher, may be sent by Post free of charge.

Rates of postage on newspapers direct from office of publication.

Proviso : Exchange papers free.

23. On all newspapers sent by Post in Canada, except in the cases hereinbefore expressly provided for, there shall be payable a rate not exceeding two cents each, and when such newspapers are posted in Canada this rate shall in all cases be prepaid by postage stamps affixed to the same.

Postage on other Newspapers.

24. For the purposes of this Act, the word "Newspapers" shall be held to mean periodicals published not less frequently than once in each week, and containing notices of passing events.

Meaning of "Newspapers."

25. The rate of postage upon periodical publications, other than newspapers, shall be one cent per four ounces, or half a cent per number, when such periodicals weigh less than one ounce and are posted singly, and when such periodical publications are posted in Canada, these rates shall in all cases be prepaid by postage stamps affixed to the same.

Postage on other periodical publications.

Digitized by Google

Rate of postage on books, pamphlets, &c.

26. On books, pamphlets, occasional publications, printed circulars, prices current, handbills, book and newspaper manuscripts, printer's proof sheets whether corrected or not, maps, prints, drawings, engravings, photographs when not on glass, or in cases containing glass, sheet music whether printed or written, packages of seeds, cuttings, bulbous roots, scions or grafts, patterns or samples of merchandize or goods, the rate of postage shall be one cent per ounce ; provided that no letter or other communication intended to serve the purpose of a letter be sent or enclosed therein, and that the same be sent in covers open at the ends or sides or otherwise so put up as to admit of inspection by the Officers of the Post Office to ensure compliance with this provision—and this postage rate shall be prepaid by postage stamp in all cases when such articles are posted in Canada.

Proviso.

Postage on mailable matter between Canada and any other Country.

27. Provided that notwithstanding any thing herein contained all letters, newspapers and other mailable matter passing by mail between any place in Canada and the United Kingdom, any British possession, the United States or any other Foreign Country, shall be liable to such charges, and rates of postage on being posted in Canada, or on delivery therein, and be subject to such regulations and conditions, as may be agreed upon under any arrangement made by the Postmaster General, for the transmission, despatch, receipt and delivery of the same, and contained in any Regulation made by the Postmaster General in pursuance of such arrangement.

PAYMENT OF POSTAGE.

From whom and how postage on unpaid letters may be recovered.

28. As well the Colonial, British or Foreign as the Canada postage on any letter or other mailable matter shall (if not pre-paid) be payable to the Postmaster General by the party to whom the same is addressed, or who may lawfully receive such letter or other thing, which may be detained until the postage be paid ;—And any refusal or neglect to pay such postage shall be held to be a refusal to receive such letter or thing, which shall be detained and dealt with accordingly ; but if the same is delivered, the postage on it shall be charged against and paid by the Postmaster delivering it, saving his right to recover it from the party by whom it was due, as money paid for such party :

Letters refused.

2. If any letter or other mailable matter is refused, or if the party to whom it is addressed cannot be found, then any postage due thereon shall be recoverable by the Postmaster General from the sender of such letter or packet ;

Amount of postage.

3. The postage marked on any letter or other mailable matter shall be held to be the true postage due thereon, and the party signing or addressing it shall be held to be the sender, until the contrary be shewn ;

4.

Digitized by Google

4. And all postage may be recovered with costs, by civil action in any Court having jurisdiction to the amount, or in any way in which customs duties are or may be recoverable. How recovered.

29. In all cases where letters and other mailable matter are posted for places without the limits of Canada, on which stamps for pre-payment are affixed of less value than the true rate of Postage to which such letters are liable,—or when stamps for pre-payment are affixed to letters addressed to any place as aforesaid for which prepayment cannot be taken in Canada,—the Postmaster General may forward such letters, charged with postage, as if no stamp had been thereon affixed. Cases in which stamped letters for places out of Canada may be forwarded as unpaid letters.

30. And for avoiding doubts, and preventing inconvenient delay in the posting and delivery of letters,—no Postmaster shall be bound to give change, but the exact amount of the postage on any letter or other mailable matter shall be tendered or paid to him in current coin as respects letters or other things delivered, and in current coin or postage stamps as the case may require in respect to the letters or other things posted. Postmasters not bound to give change.

SHIP LETTERS.

31. The Postmaster General may make such reasonable compensation as he may see fit, to Masters of vessels, not being Post Office Packets, for each letter conveyed by such vessels between places beyond Sea and Canada, and the Governor in Council may direct that at any Port or class of Ports, such vessels shall not be permitted by the Officers of customs to enter or break bulk until all letters on board the same have been delivered at the Post Office, nor until the Master has made declaration in such form as may be prescribed, that he has delivered all such letters accordingly. Conveyance of letters by sea to or from Canada in vessels other than Post Office Packets.

EXCLUSIVE PRIVILEGE OF THE POSTMASTER GENERAL—AND EXCEPTIONS FROM IT.

32. Subject always to the provisions and regulations aforesaid, and the exceptions hereinafter made, the Postmaster General shall have the sole and exclusive privilege of conveying, receiving, collecting, sending and delivering letters within Canada ;—And (except in the cases hereinafter excepted) any person who collects, sends, conveys or delivers or undertakes to convey or deliver any letter within Canada, or who receives or has in his possession any letter for the purpose of conveying or delivering it, otherwise than in conformity with this Act, shall, for each and every letter so unlawfully conveyed or undertaken to be conveyed, received, delivered or found in his possession, incur a penalty not exceeding twenty dollars : Except in certain cases no one but the Postmaster General, to collect, convey and deliver letters in Canada on pain of a fine of $20.

But such exclusive privilege, prohibition and penalty shall not apply to— The exceptions.

Digitized by Google

Letters sent by a private friend in his way, journey or travel, provided such letters be delivered by such friend to the party to whom they are addressed ;

Letters sent by a messenger on purpose, concerning the private affairs of the sender or receiver ;

Commissions or returns thereof, and affidavits or writs, process or proceedings or returns thereof, issuing out of a Court of Justice ;

Letters addressed to a place out of Canada and sent by sea and by a private vessel ;

Letters lawfully brought into Canada, and immediately posted at the nearest Post Office ;

Letters of merchants, owners of vessels of merchandize, or of the cargo or loading therein, sent by such vessel of merchandize, or by any person employed by such owners for the carriage of such letters according to their respective addresses,—and delivered to the persons to whom they are respectively addressed, without pay, hire, reward, advantage or profit for so doing ;

Letters concerning goods or merchandize sent by common known carriers to be delivered with the goods to which such letters relate, without hire or reward, profit or advantage for receiving or delivering them ;

But nothing herein contained shall authorize any person to collect any such excepted letters for the purpose of sending or conveying them as aforesaid,—or shall oblige any person to send any Newspaper, Pamphlet or Printed Book by Post.

In case of contravention letters may be seized and charged with Postage.

33. Any person may, and any Officer or person employed in the Post Office, or in the collection of the Revenue of the Dominion, shall, seize any letters conveyed, received, collected, sent or delivered in contravention of this Act, and take them to the nearest Post Office, and give such information to the Postmaster as he may be able to give, and as is necessary for the effectual prosecution of the offender ; and the letters shall moreover be chargeable with letter Postage.

BRANCH OFFICES AND DELIVERY IN CITIES, &c.

Establishment and regulation of Branch Post Offices in Cities.

34. The Postmaster General may, when in his judgment the public interest or convenience requires it, establish one or more Branch Post Offices to facilitate the operation of the Post Office in any city or place which in his opinion requires any such additional accommodation for the convenience of the inhabitants ; and he may prescribe the rules and regulations for the Branch

Digitized by Google

Branch Post Offices established by virtue of this Act; and no additional Postage shall be charged for the receipt or delivery of any letter or packet at such Branch Post Office.

35. The Postmaster General may, whenever the same may be proper for the accommodation of the public in any city or town, employ Letter Carriers for the delivery of letters received at the Post Office in such city or town, (except such as the persons to whom they are addressed may have requested, in writing addressed to the Postmaster, to be retained in the Post Office,) and for the receipt of letters at such places in such city or town as the Postmaster General may direct, and for the deposit of the same in the Post Office: Employment of Letter Carriers in Cities and rates of City Postage.

2. And for the delivery by a Carrier of each letter received from the Post Office, the person to whom the same is delivered shall pay not exceeding two cents, and for the delivery of each newspaper and pamphlet one cent;—all of which receipts, by the Carriers in any city or town, shall be accounted for to the Postmaster General. The rates.

3. Each of such Carriers shall give bond, with sureties to be approved by the Postmaster General, for the safe custody and delivery of all letters, and for the due account and payment of all moneys received by him. Carrier to give security.

36. It shall be lawful for the Postmaster General, with the consent of the Governor in Council, to establish in any city, when he shall deem it expedient, a system of free delivery by Letter Carrier of letters brought by mail and he may direct that from the time that such system is so established, no charge shall be made for the delivery of such letters by Letter Carriers in such city, and further that on drop or local letters when delivered by Letter Carrier in such city, one cent only per half ounce shall be charged in addition to the ordinary local or drop letter rate. Provision for delivery of Letters in Cities free and drop letters at a low rate of City Postage.

PARCEL POST.

37. The Postmaster General may establish and maintain a parcel post; and closed parcels, other than letters, and not containing letters, may be sent by such parcel post; and when so sent shall be liable to such charges for conveyance and to such regulations as the Postmaster General shall from time to time see fit to make. Parcel Post. Rate to be fixed by P. M. General.

FRANKING AND FREE MAIL MATTER.

38. All letters and other mailable matter addressed to or sent by the Governor or sent to or by any department of the Government at the seat of Government, shall be free of Canada Postage under such regulations as may from time to time be made in that respect by the Governor in Council; Certain Letters and other mailable matter to be free of Postage.

2.

Digitized by Google

Senate and House of Commons.

2. Letters and other mailable matter addressed to or sent by the Speaker or Chief Clerk of the Senate or of the House of Commons, or to or by any Member of either House at the Seat of Government, during any Session of Parliament, or addressed to any of the members or Officers in this section mentioned, at the seat of Government as aforesaid, during the ten days next before the meeting of Parliament, shall be free of postage ;

The same.

3. All public documents and printed papers may be sent by the Speaker or Chief Clerk of the Senate or of the House of Commons, to any Member of either House, during the recess of Parliament, free of postage ;

Limitation.

4. The privilege of free transmission as above given in this section shall apply only to mail matter passing between the seat of Government and places in Canada.

Parliamentary papers.

5. Members of either the Senate or House of Commons of Canada may, during the recess of Parliament, send by Mail free of Postage, all papers printed by order of either House.

Post Office letters, &c.

6. The Postmaster General may prescribe the conditions and circumstances under which letters, accounts and papers, relating solely to the business of the Post Office, and addressed to or sent by some officer thereof, shall be free from Canada Postage;

Petition, &c., to Local Legislatures.

7. Petitions and Addresses to either of the Provincial Legislatures of Ontario, Quebec, New Brunswick or Nova Scotia, or to any Branch thereof, and also Votes and Proceedings and other papers printed by order of any such Legislatures or any Branch thereof, during any Session thereof, may be sent free of postage under such regulations as the Postmaster General may prescribe.

PROPERTY IN POST LETTERS, AND OTHER MAILABLE MATTER.

Property in Mailable matter.

39. From the time any letter, packet, chattel, money or thing is deposited in the Post Office for the purpose of being sent by Post, it shall cease to be the property of the sender, and shall be the property of the party to whom it is addressed or the legal representatives of such party ; And the Postmaster General shall not be liable to any party for the loss of any letter packet or other thing sent by Post; nor shall any letter or packet or other mailable matter be liable to demand, seizure, or detention, whilst in the Post Office, or in the custody of any person employed in the Canada Post Office,—under legal process against the sender thereof, or against the party or legal representatives of the party to whom it may be addressed.

DEAD LETTERS.

Dead Letters, how dealt with.

40. Letters, or other articles, which from any cause remain undelivered in any Post Office, or which having been posted

Digitized by Google

posted, cannot be forwarded by post, shall under such regulations as the Postmaster General may make, be transmitted by Postmasters to the Post Office Department as Dead Letters, there to be opened and returned to the writers on payment of any postage due thereon, with five cents additional on each Dead Letter to defray the costs of returning the same, or such Dead Letters may in any case or class of cases be otherwise disposed of as the Postmaster General may direct:

2. If any such Dead Letter, of which the writer cannot be ascertained or found, contains money, the Postmaster General may appropriate it as Postal Revenue, keeping an account thereof, and the amount shall be paid by the Department to the rightful claimant as soon as he is found. If containing money.

41. All advertisements of Letters uncalled for in any Post Office, made under the orders of the Postmaster General, in a newspaper or newspapers, shall be inserted in some newspaper or newspapers of the town or place where the Office advertising is situate, or of the town or place nearest to such Post Office, provided the Publisher of such newspaper or newspapers agree to insert the same in three separate issues or publications of such newspaper or newspapers, for a price not greater than two cents for each Letter. Advertisement of Dead Letters.

LETTERS CONTAINING CONTRABAND GOODS.

42. The Postmaster General, or any Postmaster by him to that effect duly authorized, may detain any Post Letter suspected to contain any contraband goods, wares or merchandize, or any goods, wares or merchandize on the importation of which into Canada any duties of Customs are by law payable, and suspected to have been enclosed therein to evade payment of such duties, and forward the same to the nearest Collector of Her Majesty's Customs, who, in the presence of the person to whom the same may be addressed, or in his absence in case of non-attendance, after due notice in writing from such Collector requiring his attendance, left at or forwarded by the post according to the address on the letter, may open and examine the same; Detention, &c., of Letters suspected to contain contraband or dutiable goods.

2. And if on any such examination any contraband goods, wares or merchandize, or any goods, wares or merchandize on the importation of which into Canada any duties of Customs are payable, are discovered, such Collector may detain the letter and its contents for the purpose of prosecution;—and if no contraband goods, wares or merchandize, or any goods, wares or merchandize on the importation of which into Canada any duties of Customs are by law payable, are discovered in such letter, it shall, if the party to whom it is addressed is present, be handed over to him on his paying the postage (if any) charged thereon, or if he is not present, it shall be If any be found. And if not.

Digitized by Google

be returned to the Post Office and be forwarded to the place of its address.

TOLLS—AND FERRIES.

Tolls and Ferries, Mails when exempt.

43. No Mail stage, or other winter or summer vehicle carrying a Mail, shall be exempted from tolls or dues on any road or bridge in Canada, unless in the Act or Charter authorizing such road or bridge, it is specially so provided:

Obligations of ferrymen.

2. Every Ferryman shall upon request and without delay, convey over his Ferry any Courier or other person travelling with the Mail, and the carriage and horse, or horses employed in carrying the same, and the sum to be paid for such service shall be fixed by contract; or, if any ferryman demands more than the Post Office authorities or the contractor for carrying the mail are willing to pay, the amount to be paid shall be fixed by arbitrators, each party naming an Arbitrator, and the two Arbitrators naming a third, the decision of any two Arbitrators to be binding; but as respects payment, this shall not apply to cases in the Provinces of New Brunswick and Nova Scotia, where mails carried under now existing mail contracts are, under statutes in force when such contracts were made, carried over ferries without charge, and in all such cases the right to such ferriage without charge shall continue in force until the expiration of said contracts;

Proviso: as to N. S. and N. B.

Mail not to be delayed.

3. No Toll-gate keeper or Ferryman shall detain or delay a mail on pretence of demanding toll or ferriage, but the same if due and not paid shall be recovered in the usual course of law from the party liable.

UNITED STATES MAILS PASSING THROUGH CANADA.

Postmaster General may allow United States Mails to be carried through Canada on certain conditions.

44. The Postmaster General may from time to time, with the approval of the Governor in Council, make any arrangement which he deems just and expedient, for allowing the mails of the United States to be carried or transported at the expense of the said United States over any portion of Canada, from any one point in the Territory of the said United States to any other point in the same territory, upon obtaining the like privilege for the transportation of the Mails of Canada through the United States when required.

Such mails to be deemed while in Canada Her Majesty's Canada mails as regards the punishment of offences committed in respect thereof.

45. Every United States Mail so carried or transported as last aforesaid shall, while in Canada, be deemed and taken to be a Mail of Her Majesty, so far as to make any violation thereof, any depredation thereon, or any act or offence in respect thereto or to any part thereof, which would be punishable under the existing Laws of Canada if the same were a Canada Mail or part of a Canada Mail, an offence of the same degree and magnitude and punishable in the same manner and

Digitized by Google

and to the same extent as though the same were a Canada Mail or part of a Canada Mail ;—And in any indictment for such act or offence, such Mail or part of a Mail may be alleged to be, and on the trial of such indictment shall be held to be a Canada Mail or part of a Canada Mail ;—And in any indictment for stealing, embezzling, secreting or destroying any Post letter, Post letter-bag, packet, chattel, money or valuable security sent by Post through and by any of the said United States Mails as aforesaid, in the indictment to be preferred against the offender, the property of such Post letter, Post letter-bag, packet, chattel, money or valuable security sent by Post as herein mentioned, may be laid in the Postmaster General,—and it shall not be necessary to allege in the indictment or to prove upon the trial or otherwise, that the Post letter, Post letter-bag, packet, chattel or valuable security was of value.

Property in such mails.

POSTMASTERS.

46. The Postmaster General shall, upon the appointment of any Postmaster, require and take of such Postmaster a bond, with good and approved security, in such penalty as he deems sufficient, conditioned for the faithful discharge of all the duties of such Postmaster required by law, or which may be required by any instruction or regulation or general rule for the government of the Post Office :

Postmasters to give bonds.

2. And when any Surety of a Postmaster notifies to the Postmaster General his desire to be released from his suretyship, or when the Postmaster General deems it necessary, he may require such Postmaster to execute a new bond, with sureties, which bond, when accepted by the Postmaster General, shall be as valid as the bond given upon the original appointment of the Postmaster, and the Sureties in the prior bond shall be released from responsibility for all acts or defaults of the Postmaster done or committed subsequent to the acceptance of the new bond, the date of which acceptance shall be duly endorsed on such prior bond ;

Sureties may be changed and new bonds executed.

3. Payments made by such Postmaster subsequent to the acceptance of the new bond, shall be applied first to the discharge of any balance due by him at the time of such acceptance, unless the Postmaster General shall otherwise direct ;

Application of payments made after new bond.

4. And no suit shall be instituted against any Surety of a Postmaster after the lapse of two years from the death, resignation or removal from office of such Postmaster, or from the date of the acceptance of a new bond from such Postmaster.

Limitation of suits against sureties.

47. The Postmaster General may appoint the periods at which each Postmaster or person authorized to receive postage or any class or number of Postmasters or persons respectively, shall render his or their accounts,—And if any Postmaster or any

Accountability of Postmasters to be enforced by Postmaster General.

Digitized by Google

any such other person neglects or refuses to render his accounts, and to pay over to the Postmaster General the balance by him due at the end of any such period, the Postmaster General may cause a suit to be commenced against the person or persons so neglecting or refusing.

Penalty for delay in the rendering of accounts.

48. If any Postmaster neglects to render his accounts for one month after the time or in the form and manner prescribed by the Postmaster General's instructions and regulations, he shall forfeit double the value of the postages which have arisen at the same office in any equal portion of time previous or subsequent thereto, to be recovered by the Postmaster General in an action of debt on the bond against the Postmaster and his sureties, and for which the sureties shall be liable.

Postmasters at Cities to render accounts of emoluments under oath.

49. The Postmaster at each of the Cities of Canada and at any Town or place in Canada when required so to do by the Postmaster General, shall render Accounts to the Postmaster General, under oath, in such form as the latter shall prescribe, for the purpose of giving full effect to this section, of all emoluments or sums by them respectively received for boxes or pigeon-holes, or other receptacles for letters or papers, and by them charged for to individuals, or for the delivery of letters or papers at or from any places in such Cities, Towns or places respectively other than the actual Post Offices of such Cities, Towns or places respectively, and of all emoluments, receipts and profits that have come to their hands by reason of keeping Branch Post Offices in such Cities respectively;

Sums so received to be paid over as Post Office Revenue, the Postmaster retaining only the amount of his authorized salary and allowances.

2. And whatever sum appears from such account to have been received by the Postmaster at any City, Town or place for such boxes and pigeon-holes, and other receptacles for letters and papers, and for delivering letters or papers at or from any place in such City other than the said Post Office, and by reason of keeping a Branch Post Office or Branch Post Offices in such City, shall be then paid to the Postmaster General as Post Office Revenue;—And no Postmaster shall, under any pretence whatsoever, have or receive or retain for himself, any greater or other allowance or emolument of any kind, than the amount of his salary and allowances as fixed and authorized by law or by the Postmaster General.

Postmaster General may fix such salary on per centage in certain cases.

50. Postmasters whose salaries are not fixed by Law may be paid by a percentage on the amount collected by them or by such salary, as the Postmaster General by Regulation may determine, in each case, having due regard to the duties and responsibilities assigned to each Post Office.

MAIL CONTRACTS AND CONTRACTORS.

Mail contracts for more than $300 per ann.

51. The Postmaster General, before entering into any contract for carrying the Mail involving an annual cost of more than two

Digitized by Google

two hundred dollars, shall give at least six weeks previous notice by advertisement in one or more of the newspapers published in or nearest to the County or Counties where the contract is to be performed,—that such Contract is intended to be made, and of the day on which tenders for the same will be by him received;

to be awarded only after advertizing for tenders.

2. And the contracts in all cases in which there is more than one tender, shall be awarded to the lowest bidder tendering sufficient security for the faithful performance of the contract, unless the Postmaster General is satisfied that it is for the interest of the public not to accept the lowest tender:

Contract to be awarded to the lowest bidder giving good security.

3. The Postmaster General shall not be bound to consider the bid of any person who has wilfully or negligently failed to execute or perform a prior contract; but in all cases where he does not give the Contract to the lowest bidder, he shall report his reasons therefor to the Governor, for the information of Parliament.

If otherwise, reasons to be reported to the Governor.

52. When in the opinion of the Postmaster General the lowest proposal received after public advertisement for the performance of a Mail contract is excessive, he shall not be compelled to accept the said proposal, but may in his discretion either re-advertise the said contract for further competition, or offer to the persons from whom proposals have been received, each in his turn, beginning with the lowest, such sum as he deems an equitable and sufficient price for the said contract, and may enter into a contract with such of the said persons as will accept such offer.

Lowest offer not to be accepted if deemed excessive.

Proceeding in such case.

53. It shall be within the discretion of the Postmaster General to authorize and allow a Postmaster to undertake and perform a contract for the transportation of a Mail, subject to the regulations applying to all Mail contracts, when, in his opinion, the interests of the public service will be thereby promoted.

Postmaster may be allowed to be a Contractor.

54. Every proposal for carrying the Mail shall be accompanied by an undertaking, signed by one or more responsible persons, to the effect that he or they undertake that the bidder will, if his bid be accepted, enter into an obligation, within such time as may be prescribed by the Postmaster General, with good and sufficient sureties, to perform the service proposed:

Every tender to be accompanied by a written guarantee to give good security.

2. If, after the acceptance of a proposal and notification thereof to the bidder, he fails to enter into an obligation within the time prescribed by the Postmaster General, with good and sufficient sureties for the performance of the service, then the Postmaster General shall proceed to contract with some other person for the performance of the said service, and may forthwith cause the difference between the amount contained in the proposal

Penalty for failure to give security after acceptance of tender.

Digitized by Google

proposal so undertaken, and the amount for which he has contracted for the performance of the said service, for the whole period of the proposal, to be charged up against the said bidder and his surety or sureties, and the same may be immediately recovered for the use of the Post Office in an action of debt in the name of the Postmaster General against either or all of the said persons.

How recoverable.

Contracts for less than $200 per annum, to be let as the Postmaster General sees fit.

55. The Postmaster General may at his discretion submit contracts for Mail transportation, involving an annual expense of less than two hundred dollars, to public competition in the manner and form prescribed for contracts of a greater annual charge,—or he may direct an agent to receive tenders for and execute such contracts on his behalf,—or he may in special cases conclude such contracts by private agreement when he conceives the public interest will be promoted by such a course ;—But he shall not pay under any such contract made by private agreement, a higher rate of annual payment for the service to be performed, than is ordinarily paid for services of a like nature under contracts let by public advertisement.

Proviso.

Contracts not to be made with persons who have combined to keep back tenders.

56. No contract for carrying the Mail shall knowingly be made by the Postmaster General with any person who has entered into any combination, or proposed to enter into any combination to prevent the making of any bid for a Mail contract by any other person, or who has made any agreement, or has given or performed or promised to give or perform any consideration whatever, or to do or not to do any thing whatever, in order to induce any other person not to bid for a Mail contract.

As to Contracts with Railway or Steamboat Companies.

57. The Postmaster General may contract for conveying the Mail with any Railway or Steam Boat Company either with or without advertising for such contract ; but all contracts involving the payment of a larger sum than one thousand dollars shall be submitted to the Governor in Council.

Abstracts of tenders to be recorded.

58. The Postmaster General shall keep recorded, in a well bound Book, a true and faithful abstract of offers made to him for carrying the Mail, embracing as well those which are rejected as those which are accepted ;—the said abstract to contain a description of each contract advertised for public competition, the dates of the offers made, the dates at which they were received by the Postmaster General, the names of the parties offering, the terms on which they propose to carry the Mail, the sum for which it is offered to contract, and the length of time the agreement is to continue ;—And the Postmaster General shall also put on file and preserve the originals of the propositions of which abstracts are here directed to be made, and shall report at each session of Parliament a true copy from the said record of all offers made for carrying the Mail as aforesaid :

Originals to be preserved.

2.

Digitized by Google

2. No contract shall be entered into for a longer term than four years, but the Postmaster General may in special cases, when in his opinion the service has been satisfactorily performed under an expiring contract, and on conditions advantageous for the public interest, renew the same with the same contractor for a further term of not exceeding four years.

No contract to be for more than four years.

59. The Postmaster General may make temporary contracts for such services until a regular letting in the form prescribed can take place.

Temporary contracts.

60. No additional compensation shall be made to any Mail Contractor so as to make the compensation for additional regular service exceed the exact proportion which the original compensation bears to the original service stipulated to be performed ;—And no extra allowance shall be made by the Postmaster General to any Contractor, for an increase of expedition in the transportation of the Mail, unless thereby the employment of additional stock or carriers by the Contractor is rendered necessary ; and in such case, the additional compensation shall never bear a greater proportion to the additional stock or carriers rendered necessary than the sum stipulated in the original contract bears to the stock and carriers necessarily employed in its execution.

Additional compensation limited.

And so of extra allowance.

61. Her Majesty's Mail and persons travelling therewith on Postal service, shall at all times when thereunto required by the Postmaster General, be carried on any and every Railway made or to be made in Canada, and with the whole resources of the Railway Company if required, on such terms and conditions and under such Regulations as the Governor in Council makes.

Her Majesty's Mail to be carried on Railways on terms and conditions to be fixed by Governor in Council.

POST OFFICE SAVINGS BANKS.

62. To enlarge the facilities now available for the deposit of small Savings, and to make the Post Office available for that purpose, and to give the direct security of the Dominion to every Depositor for repayment of all moneys deposited by him, together with the Interest due thereon: the Postmaster General may, with the consent of the Governor in Council establish a system of Post Office Savings Banks, in connexion with a central Savings Bank established as a branch of the Post Office Department at the seat of Government.

Postmaster General may establish Post Office Savings Banks.

63. The Postmaster General may, with the consent of the Governor in Council, authorize and direct such Postmasters as he shall think fit, to receive deposits for remittance to the Central Office, and to repay the same, under such Regulations as he, with the sanction of the Governor in Council, may prescribe in that respect.

Postmasters to receive and repay deposits.

64.

Digitized by Google

Deposits to be entered in Depositor's Book and entry to be attested.

Acknowledgement of deposit by Postmaster General to be transmitted to depositor within ten days.

Proviso.

64. Every Deposit received by any Postmaster appointed for that Purpose shall be entered by him at the Time in the Depositor's Book, and the Entry shall be attested by him and by the dated Stamp of his Office, and the Amount of such Deposit shall upon the Day of such Receipt be reported by such Postmaster to the Postmaster General, and the Acknowledgment of the Postmaster General, signified by the Officer whom he shall appoint for the purpose, shall be forthwith transmitted to the Depositor, and the said acknowledgment shall be conclusive Evidence of his Claim to the Repayment thereof, with the Interest thereon, upon Demand made by him on the Postmaster General; and, in order to allow a reasonable Time for the Receipt of the said Acknowledgment, the Entry by the proper Officer in the Depositor's Book shall also be conclusive Evidence of the Title for Ten days from the Lodgment of the Deposit; and if the said Acknowledgment shall not have been received by the Depositor through the Post within Ten Days, and he shall, before or upon the Expiry thereof, demand the said Acknowledgment from the Postmaster General, then the Entry in his Book shall be conclusive Evidence of Title during another Term of Ten Days, and *toties quoties*: Provided always, that such Deposits shall not be of less Amount than One Dollar, nor of any Sum not a Multiple thereof, and that no sum of money deposited under this Act, shall at any time be liable to demand, seizure, or detention while in the hands of any Postmaster or while in course of transmission to or from the Postmaster General, under legal process against the depositor thereof.

Deposit to be repaid to depositor on demand with the least possible delay.

65. On Demand of the Depositor or Party legally authorized to claim on account of the Depositor, made in such Form as shall be prescribed in that Behalf, for Repayment of any Deposit, or any Part thereof, the Authority of the Postmaster General for such Repayment shall be transmitted to the Depositor forthwith, and the Depositor shall be entitled to Repayment of any Sum or Sums that may be due to him with the least possible delay after his Demand shall be made at any Post Office where Deposits are received or paid.

Name of Depositor or amount deposited or withdrawn not to be disclosed by officers.

66. The Postmasters or other Officers of the Post Office engaged in the Receipt or Payment of Deposits shall not disclose the Name of any Depositor nor the Amount deposited or withdrawn, except to the Postmaster General, or to such of his Officers as may be appointed to assist in carrying into operation the provisions of this Act in relation to Post Office Savings Banks.

Money deposited to be paid over to Receiver General, and sums withdrawn to be repaid by him.

67. All Moneys so deposited with the Postmaster General shall forthwith be paid over to the Receiver General of Canada and shall be credited to an Account called "Post Office Savings Bank Account"; and all Sums withdrawn by Depositors, or by Parties legally authorized to claim on account of Depositors, shall be repaid to them by the Receiver General, through the

Digitized by Google

the Office of Her Majesty's Postmaster General and charged to such account.

68. The Interest payable to the Parties making such Deposits shall be at the Rate of Four Dollars *per Centum per Annum*, but such Interest shall not be calculated on any Amount less than Three Dollars or some Multiple thereof, and not commence until the First Day of the Calendar Month next following the Day of Deposit, and shall cease on the First Day of the Calendar Month in which such Deposit is withdrawn.

Interest on all deposits to be payable for each $3, for each whole Calendar month, at 4 per cent per annum.

69. On the thirtieth day of June in every year the interest on deposits shall be added to and become part of the principal money.

Interest when to become principal.

70. With the consent of the Governor in Council, the Post-Master General may whenever it may be deemed expedient, issue certificates of deposit in sums of not less than one hundred dollars, and bearing interest at the rate of not exceeding five per cent per annum, to depositors who having like sums at the credit of their ordinary deposit accounts, may desire to transfer such sums from such ordinary deposit accounts, to a special deposit account represented by such certificates, and bearing the rate of interest specified thereon—and such certificate shall not be transferable, but shall be evidence of the depositors claim upon such special deposit account to the amount expressed in such certificate, with the interest due thereon, and shall be redeemable upon such previous notice as may be expressed thereon, and in all respects subject to such regulations as the Postmaster General, with the sanction of the Governor in Council, may make.

Certificates of deposit, bearing interest at five per cent, may be issued, for sums not less than $100.

71. Except as may be herein otherwise specially provided the Postmaster General may make, and from time to time, as he shall see occasion, alter, Regulations for superintending, inspecting, and regulating the mode of keeping and examining the accounts of depositors, and with respect to the making of deposits and to the withdrawal of deposits and interest, and all other matters incidental to the carrying the provisions of this Act in relation to Post Office Savings Banks into execution, by him, and all regulations so made shall be binding on the parties interested in the subject matter thereof to the same extent as if such regulations formed part of this Act and as respects evidence of such regulations and publication thereof, the provisions in these respects of the tenth section of this Act shall apply; and copies of all regulations issued under the authority of this Act, in relation to Post Office Savings Banks, shall be laid before both Houses of Parliament within fourteen days from the date thereof, if Parliament shall be then sitting, and if not then within fourteen days from the next re-assembling of Parliament.

Post Office Savings Bank Regulations may be made by Postmaster General.

Effect of Regulations.

Copies to be laid before Parliament.

72.

Digitized by Google

Monthly return of receipts and payments to be published in Canada Gazette.

72. As soon as possible after the end of each month, the Postmaster General shall make a return to the Auditor of Public Accounts of all monies received and paid during the preceding month, and of the total amount in deposit at the end of each month, and the auditor shall cause such monthly statement to be inserted in the *Canada Gazette.*

Monthly excess of cash balance over $500,000, to be invested in Govt. Debentures.

73. Whenever the cash balance at the credit of the Post Office Savings Bank account at the end of any month, shall exceed five hundred thousand dollars; it shall be the duty of the Auditor of Public Accounts to report such excess to the Minister of Finance, who shall, with the consent of the Board of Treasury, from time to time invest the amount of such excess in Government Debentures already issued by the Dominion, or by the Governments of either of the Provinces of Canada, Ontario, Quebec, New Brunswick or Nova Scotia, and which shall then be held in reserve by the Receiver General on account of the Post Office Savings Banks, and shall be available for repayment of deposits and of the interest due thereon, should the current Savings Bank money not be sufficient at any time for that purpose.

Annual account and statement to be laid before Parliament.

74. An annual account of all deposits received and paid under the authority of this Act, and of the expenses incurred during the year ended the thirtieth of June, together with a statement of the total amount due at the close of the year to all depositors, shall be laid by the Postmaster General before both Houses of Parliament within ten days after the commencement of the next following session thereof.

Receiver General to credit Post Office Savings Bank account with accrued interest on invested surplus and interest at five per cent on invested balance and debit it with expenses.—Profit to form part of, or loss to be made good from Consolidated Revenue Fund.

75. All expenses incurred in maintaining the Post Office Savings Bank system shall be paid out of the moneys received under the provisions of this Act relating to such Savings Bank and the Receiver General shall credit to the Post Office Savings Bank account, interest at the rate of five per cent per annum on the uninvested balance from time to time at the credit of the said account, and also the interest accruing upon the Debentures in which surplus Post Office Savings Bank funds may have been invested as above provided for, and shall charge the said account with all moneys and interest paid to depositors and with all expenses incurred in maintaining the Post Office Savings Bank system, and the balance of profit, if any, shall form part of the Consolidated Revenue Fund, and in like manner the balance of loss, if any, shall be made good from the Consolidated Revenue Fund; and a Statement shewing the result in each year ended thirtieth June, and the amount of profit or loss, as the case may be, shall be laid by the Receiver General before both Houses of Parliament within ten days after the commencement of the next following session hereof.

POSTMASTER

Digitized by Google

POSTMASTER GENERAL'S REPORTS.

76. The Postmaster General shall make to the Governor annually, so that they may be laid before Parliament within ten days after the meeting thereof in each Session, the following Reports, which shall be made up to the thirtieth day of June then last, that is to say : **Annual Report to Parliament.**

First. A Report of the finances, receipts and expenditure of the Post Office of Canada for the year ended on the thirtieth day of June previous, in the form of a General Account Current, shewing on the one side the whole amount of balances due to the Department from Postmasters or others at the time up to which the then last report was made, the whole amount of Postage that accrued within the year elapsed since such last report, and any and every other item of revenue or receipt ;—and on the other side of the Account, the charges and expenditures incurred by the Department within the said year, of every kind and nature, shewing in separate amounts the charges for Mail transportation, for salaries and commission and allowances to Postmasters, for printing and advertising, and for incidental and miscellaneous items of expenditure, shewing also the balance remaining due from Postmasters and others at the close of such year ;—and shewing in the shape of a Balance what the result of the operations of the Department is for the said year, whether to produce a surplus of revenue in excess of expenditure, or to cause the expenditure to exceed the revenue, and in either case, to what amount. **General Account current, what to contain and shew.**

Second. A Report shewing in detail all payments made and charges incurred for Mail transportation during the said year, stating in each case the name of the contractor or party receiving payment, the Mail Route, the mode and frequency of transportation, and the sums paid ; **Payments, for mail transport in detail.**

Third. A Report in detail of all charges for salaries, commissions and allowances, shewing in each case the name of the person, the service or duty performed, and the amount paid ; **Salaries &c., in detail.**

Fourth. A Report in detail of the expenditure of the Department within the said year for printing and advertising, and for all incidental and miscellaneous items of disbursement, shewing the sum paid under each head of expenditure, and the names of the persons to whom paid ; **Incidental Expenditure in detail.**

Fifth. A Report of all contracts made for the transportation of the Mail within the year ending on the thirtieth day of June next preceding such report, stating in each case of contract its date and intended duration, the name of the Contractor, the routes embraced in the contract, with the length of each, with the times of arrival and departure at the ends of each route, the mode of transportation contracted for, and the price stipulated to be paid by the Department ; **Mail Contracts.**

Digitized by Google

Extra Allowances to contractors.

Sixth. A Report of all allowances made to Contractors within the said year, beyond the sums originally stipulated in their respective contracts, and the reasons for the same, and of all orders made by the Department whereby additional expense is or will be incurred beyond the original contract price on any land or water route,—specifying in each case the route to which the order relates, the name of the contractor, the original service provided for by the contract, the original price, the date of the order for additional service, the additional service required, and the additional allowance therefor,—also a Report of all curtailments of expenses effected by the Department within the said year, specifying in each case the same particulars, as required in cases of additional allowances;

Curtailments of expenses.

Fines imposed on Contractors.

Seventh. A Report of all fines imposed and deductions from the pay of Contractors made during the said year, for failures to deliver the Mail or for any other cause, stating the names of the delinquent Contractors, the nature of the delinquency, the route on which it occurred, the time when the fine was imposed, and whether the fine has been remitted, or order for deduction rescinded, and for what reason;

New Offices & Post Routes.

Eighth. A Report of the new Offices and Post Routes established, and of the Offices and Post Routes discontinued or closed within the said year, shewing in the case of each Office and Post Route discontinued or closed, the reason for the proceeding;

Cases of loss or abstraction of money letters.

Ninth. A Report of all cases occurring within the said year of the abstraction or loss of letters containing money sent through the Post, shewing the particulars of each case, and stating the result of the proceedings instituted therein by the Department;

Money Order Offices.

Tenth. A Report of the Money-Order Offices in operation at any time within the said year, designating in each case the county wherein the Office is situate, the number and amount of Orders issued and paid, and the amount of commission arising thereupon at each Office respectively,—distinguishing, with respect to the Commission, the proportion allowed as compensation to the Postmaster, and the proportion accruing to the Revenue in each case;

Cost of Money Order System.

Eleventh The cost of the Money-Order system for the year to which the report relates, specifying in detail the disbursements for salaries, advertising, account books, printing, stationery and every other item of expenditure;

Money Order offices opened or closed.

Twelfth. The names of the additional Money-Order Offices opened, and of such Money-Order Offices as have been closed within the said year;

Thirteenth.

Digitized by Google

Thirteenth. The losses, if any, sustained in conducting the Money-Order system, and how incurred; Losses under Money Order System.

Fourteenth. Report of all offers made for carrying the Mails upon contracts advertised during the year; Tenders for contracts.

Fifteenth. Statement of Dead Letters received during the year, and of their contents, valuable or otherwise; Dead Letters.

Sixteenth. Statement of Post Office Savings Bank transactions during the said year and of the total amount due at the close of the same to all depositors. Post Office Savings Bank transactions.

OFFENCES AND PENALTIES.

77. To steal, embezzle, secrete or destroy any Post Letter shall be felony, punishable in the discretion of the Court by imprisonment in the Penitentiary, for not less than three nor more than five years; unless such Post Letter contains any chattel, money or valuable security, in which case the offence shall be punishable by imprisonment in the Penitentiary for life; or for a period not less than five years: Stealing &c., Post Letter.

2. To steal from or out of a Post Letter any chattel, money or valuable security, shall be felony, punishable by imprisonment in the Penitentiary for life; or for a period not less than five years. Stealing from a Post Letter.

3. To steal a Post Letter Bag, or a Post Letter from a Post Letter Bag, or a Post Letter from any Post Office, or from any officer or person employed in the Canada Post Office, or from a Mail,—or to stop a Mail with intent to rob or search the same,—shall be felony punishable by imprisonment in the Penitentiary for life; or for a period not less than five years. Stealing a Post Letter or Post Letter Bag.

4. To open unlawfully any Post Letter Bag,—or unlawfully to take any letter out of such bag,—shall be felony punishable by imprisonment in the said Penitentiary for five years; Opening a Post Letter Bag.

5. To steal, embezzle or secrete any Parcel sent by Parcel Post or any article contained in any such Parcel, shall be felony punishable by imprisonment in the Penitentiary for a period of not less than three years; Stealing parcel or its contents.

6. To receive any Post Letter, or Post Letter Bag, or any chattel, money or valuable security, parcel or other thing the stealing, taking, secreting or embezzling whereof is hereby made felony, knowing the same to have been feloniously stolen, taken, secreted or embezzled, shall be felony, punishable by imprisonment in the Penitentiary for any term not less than five years,—and the offender may be indicted and convicted either as an accessory after the fact or for a substantive felony, and in Receiving stolen Post Letter or Post Letter Bag, &c.

Digitized by Google

the latter case whether the principal felon hath or hath not been previously convicted, or is or is not amenable to justice;—And however such receiver be convicted, the offence shall be punishable as aforesaid;

Unlawfully issuing Money Order.

7. To unlawfully issue any money order with a fraudulent intent, shall be felony punishable by imprisonment in the Penitentiary for a period of not less than three years;

Forging any Postage Stamp, &c.

8. To forge, counterfeit or imitate any Postage Stamp issued or used under the authority of this Act, or by or under the authority of the Government or proper authority of the United Kingdom, or of any British North American Province, or of any Foreign Country,—or knowingly to use any such forged, counterfeit or imitated stamp,—or to engrave, cut, sink or make any plate, die or other thing whereby to forge, counterfeit or imitate such stamp or any part or portion thereof,—or to have possession of any such plate, die or other thing as aforesaid, except by the permission in writing of the Postmaster General, or of some Officer or person who, under regulations made in that behalf, may lawfully grant such permission,—or to forge, counterfeit or unlawfully imitate, use or affix, to or upon any letter or packet, any stamp, signature, initials or other mark or sign purporting that such letter or packet ought to pass free of postage, or at a lower rate of postage, or that the postage thereon or any part thereof hath been prepaid or ought to be paid by or charged to any person, department or party whomsoever,—shall be felony, punishable by imprisonment in the Penitentiary for life, or for a period not less than five years, and to such felony, all the provisions of any *Act respecting Forgery*, shall apply as if such offence were made felony under that Act, in so far as the provisions thereof are not inconsistent with this Act, and the accessories to any such offence shall be punishable accordingly;

Forging Money Order or Depositor's Book, &c.

9. To forge, counterfeit or imitate any Post Office Money Order, or advice of such Money Order, or Post Office Savings Bank Depositor's Book, or authority of the Post Master General for repayment of a Post Office Savings Bank deposit or of any part thereof,—or any signature or writing in or upon any Post Office Money Order, Money Order advice, Post Office Savings Bank Depositor's Book, or authority of Post Master General, for repayment of a Post Office Savings Bank deposit or of any part thereof, with intend to defraud, shall be a felony punishable by imprisonment in the Penitentiary for any term not less than two years and not exceeding seven years, and the accessories to any such offence shall be punishable accordingly;

Stealing &c., Mail-key or Mail-lock.

10. If any person steals, purloins, embezzles, or obtains by any false pretence, or aids or assists in stealing, purloining, embezzling or obtaining by any false pretence, or knowingly or

Digitized by Google

or unlawfully makes, forges or counterfeits, or causes to be unlawfully made, forged or counterfeited, or knowingly aids or assists in falsely and unlawfully making, forging or counterfeiting any key suited to any lock adopted for use by the Post Office Department, and in use on any Canada Mail or or Mail-bag, or has in his possession any such Mail-key or any such Mail-lock, with the intent unlawfully or improperly to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold or otherwise disposed of,—such person shall, on conviction, be deemed guilty of felony, and shall be punished by imprisonment in the Penitentiary for a period not exceeding seven years;

Unlawfully opening, &c., Post Letter Bag or Post Letter.

11. To open unlawfully, or wilfully to keep, secrete, delay or detain, or procure or suffer to be unlawfully opened, kept, secreted or detained, any Post Letter Bag, or any Post Letter,—whether the same came into the possession of the offender by finding or otherwise howsoever,—or, after payment or tender of the postage thereon, (if payable to the party having possession of the same) to neglect or refuse to deliver up any Post Letter to the person to whom it is addressed or who is legally entitled to receive the same,—shall be a misdemeanor;

Stealing &c., certain other mailable matter.

12. To steal or for any purpose to embezzle, or secrete, any printed vote or proceeding, newspaper, printed paper, or book, packet or package of patterns or samples of merchandize or goods, or of seeds, cuttings, bulbs, roots, scions or grafts sent by mail, shall be a misdemeanor;

Wilfully destroying matter sent by mail or Parcel Post.

13. Wilfully and maliciously to destroy, damage, detain or delay any Parcel sent by Parcel Post, any packet or package of patterns or samples of merchandize or goods, or of seeds, cuttings, bulbs, roots, scions or grafts, or any printed vote or proceeding, newspaper, printed paper or book or other mailable matter, not being a post letter, sent by mail, shall be a misdemeanor;

Enclosing explosive substance in matter sent by Post.

14. To enclose in or with any letter, packet or other mailable matter sent by Post, or to put into any Post Office any explosive, dangerous or destructive substance or liquid or any matter or thing likely to injure any letter or other mailable matter or the person of any officer or servant of the Post Office shall be a misdemeanor, unless such offence is or shall be by law constituted a crime of greater magnitude;

Enclosing a letter in any other mailable matter.

15. To enclose a letter or letters or any writing intended to serve the purpose of a letter, in a Parcel posted for the Parcel Post, or in a packet of Samples or Patterns posted to pass at the rate of postage applicable to Samples and Patterns, or to inclose a letter or any writing to serve the purpose of a letter, or to inclose any other thing, in a Newspaper posted to pass as

Digitized by Google

as a Newspaper at the rate of postage applicable to Newspapers (except in the case of the accounts and receipts of Newspaper Publishers which are permitted to pass folded within the Newspapers sent by them to their subscribers) or to enclose a letter or any writing intended to serve the purpose of a letter in any mail matter sent by Post not being a letter, shall in each case be an offence punishable by a penalty of not less than ten and not exceeding forty dollars in each case ;

Removing postage stamp or mark thereon with fraudulent intent.

16. To remove with fraudulent intent from any letter, newspaper or other mailable matter, sent by Post, any postage stamp which shall have been affixed thereon, or wilfully with intent aforesaid remove from any postage stamp which shall have been previously used, any mark which shall have been made thereon at any Post Office, shall be a misdemeanor;

Obstructing Mail, &c.,

17. To obstruct or wilfully delay the passing or progress of any Mail or of any carriage or vessel, horse, animal or carriage employed in conveying any Mail, on any public highway, river, canal or water communication, shall be a misdemeanor ;

Cutting, &c., Post Letter Bag.

18. To cut, tear, rip or wilfully to damage or destroy any Post Letter Bag, shall be a misdemeanor;

Being drunk on duty as a Mail Carrier, &c.,

19. It shall be a misdemeanor for any Mail Carrier or any person employed to convey any Mail, Post Letter Bag, or Post Letters, to be guilty of any act of drunkenness, negligence or misconduct whereby the safety or punctual delivery of such Mail, Post Letter Bag, or Post Letters might be endangered,—or contrary to this Act or any Regulation made under it, to collect, receive or deliver any letter, or other mailable matter—or to neglect to use due care and diligence to convey any Mail Post Letter Bag, or Post Letter, at the rate of speed appointed therefor by the Regulations then in force or the contract under which he acts ;

Refusing to allow Mail to pass through Toll-Gate.

20. It shall be a misdemeanor for any Toll-gate Keeper to refuse or neglect forthwith upon demand to allow any Mail or any carriage, horse or animal employed in conveying the same to pass through such Toll-gate, whether on pretence of the non-payment of any Toll or other pretence whatsoever ;

Detaining, &c., Mail at Ferry.

21. It shall be a misdemeanor for any ferryman wilfully to detain or delay or refuse to convey over, a mail at his ferry ;

Wilfully contravening regulations.

22. Any wilful contravention of any Regulation lawfully made under this Act, shall be a misdemeanor, if declared to be so by such regulation ;

Soliciting the commission of any such felony or misdemeanor.

23. To solicit or endeavour to procure any person to commit any act hereby made or declared a felony or misdemeanor, shall be a misdemeanor ;

24.

Digitized by Google

24. And every such offence declared to be a misdemeanor by this Act shall be punishable by fine or imprisonment or both in the discretion of the Court before whom the offender is convicted ;

Punishment for misdemeanor.

25. Every principal in the second degree and every accessory before or after the fact to any such felony as aforesaid, shall be guilty of felony, and punishable as the principal in the first degree ;—And every person who aids, abets, counsels or procures the commission of any such misdemeanor as aforesaid, shall be guilty of a misdemeanor and punishable as a principal offender ;

Accessories and abettors to be punishable as principals.

26. Any imprisonment awarded under this Act shall be in the Penitentiary of that part of the Dominion in which the conviction shall take place, if for a term of or exceeding two years ;—and if the imprisonment awarded be for a less term, it may be with or without hard labour in the discretion of the Court awarding it.

Imprisonment if for two years to be in Penitentiary.

78. If any Officer of or connected with the Post Office converts to his own use in any way whatever, or uses by way of investment in any kind of property or merchandize, or loans with or without interest, any portion of the public moneys entrusted to him for safe keeping, transfer, disbursement, or for any other purpose,—every such act shall be deemed and adjudged to be an embezzlement of so much of the said moneys as are thus taken, converted, invested, used or loaned, which is hereby declared to be a felony,—And the neglect or refusal to pay over any public moneys in his hands, or to transfer or disburse any such moneys promptly, on the requirement of the Postmaster General, shall be *primâ facie* evidence of such conversion to his own use of so much of the public moneys as are in the hands of such officer ;—And all persons advising or knowingly and willingly participating in such embezzlement, upon being convicted thereof before any Court of competent jurisdiction, shall for every such offence forfeit and pay to Her Majesty, Her Heirs or Successors, a fine equal to the amount of the money embezzled, and shall suffer imprisonment for a term not less than three months, and not more than seven years.

Embezzlement or unlawful use of money entrusted to him by an officer of or connected with the Post Office, to be felony.

Penalty for advising, &c., such embezzlement, &c.

79. It shall not be lawful for any person other than a Postmaster to exercise the business of selling Postage Stamps or Stamped envelopes to the Public unless duly licensed so to do by the Postmaster General and under such conditions as he may prescribe ; and any person who shall violate this provision by selling Postage Stamps or Stamped envelopes to the Public without a license from the Postmaster General, shall on conviction before a Justice of the Peace, incur a penalty of not exceeding forty dollars for each offence.

None but Postmasters to sell postage stamps without license Penalty $40.

80.

Digitized by Google

Wilfully injuring, &c. Street Letter Box, &c. to be a misdemeanor.

80. If any person wilfully or maliciously injures or destroys any Street Letter Box, Pillar Box or other receptacle established by authority of the Postmaster General for the deposit of letters or other mailable matter, such person shall, on conviction, be deemed guilty of a misdemeanour punishable by fine or imprisonment or both in the discretion of the Court before which the offender is convicted, and every person who aids, abets, counsels or procures the commission of this offence shall be guilty of a misdemeanour and be indictable and punishable as a principal offender.

Penalty for using postage stamp used before.

81. If any person uses or attempts to use in prepayment of postage on any letter or mailable matter posted in this Province, any postage stamp which has been before used for a like purpose, such person shall be subject to a penalty of not less Ten and not exceeding Forty dollars for every such offence, and the letter or other mailable matter on which such stamp has been so improperly used may be detained, or in the discretion of the Postmaster General forwarded to its destination charged with double postage.

Penalty for placing the words "Post Office," on house, &c., without authority.

82. If any person without the authority of the Postmaster General, the proof of which authority shall rest on such person, shall place or permit or cause to be placed or to remain, on his house or premises, the words *Post Office* or any other words or mark which may imply or give reasonable cause to believe that such house or premises is or are a Post Office or a place for the receipt of letters, he shall on conviction before a Justice of the Peace incur a penalty of not exceeding ten dollars for each offence.

PROCEDURE, CRIMINAL AND CIVIL.

Venue, &c., in cases of indictable offences against this Act.

83. Any indictable offence against this Act may be dealt with, indicted and tried and punished, and laid and charged to have been committed either in the district or county or place where the offence is committed, or in that in which the offender is apprehended or is in custody, as if actually committed therein;

Venue, &c., in cases of offences committed in respect of Mails, &c., in transit.

2. And where the offence is committed in or upon, or in respect of a Mail, or upon a person engaged in the conveyance or delivery of a Post letter bag, or Post letter, or chattel or money or valuable security sent by Post, such offence may be dealt with and inquired of, tried and punished and charged to have been committed as well within the district, county or place in which the offender is apprehended or is in custody, as in any district, county or place through any part whereof such Mail, person, post letter bag, post letter, chattel, money of valuable security, passed in the course of conveyance and delivery by the Post, in the same manner as if it had been actually committed in such district, county or place;

3.

Digitized by Google

3. And in all cases where the side or centre or other part of a highway, or the side bank, centre or other part of a river or canal, or navigable water, constitutes the boundary between two districts, counties or places, then to pass along the same, shall be held to be passing through both ;

As to roads, rivers, &c., forming boundaries.

4. And every accessory before or after the fact, if the offence be felony,—and every person aiding or abetting or counselling or procuring the commission of any offence if the same be a misdemeanor,—may be dealt with, indicted, tried and punished as if he were a principal, and his offence may be laid and charged to have been committed in any district, county or place, where the principal offence might be tried.

Accessories and abettors and their offences may be dealt with, and laid and charged in like manner as principals and their offences.

84. In every case where an offence is committed in respect of a Post letter bag, or a Post letter, or other mailable matter chattel, money or a valuable security, sent by Post, in the indictment to be preferred against the offender, the property of such Post letter bag, Post letter, or other mailable matter, chattel, money or valuable security, sent by Post, may be laid in the Postmaster General;—And it shall not be necessary to allege in the indictment or to prove upon the trial or otherwise, that the Post Letter Bag, Post letter, or other mailable matter, chattel or valuable security was of any value :

Property of any mailable matter sent by post, may be laid in the Postmaster General.

Value need not be alleged or proved.

2. But except in the cases aforesaid, the property of any chattel or thing used or employed in the service of the Post Office or of moneys arising from duties of postage, shall be laid in Her Majesty, if the same be the property of Her Majesty, or if the loss thereof would be borne by the Dominion and not by any party in his private capacity ;

Property of other things and of postage money to be laid in Her Majesty.

3. And in any indictment against any person employed in the Post Office of Canada, for any offence against this Act, or in any indictment against any person for an offence committed in respect of some person so employed, it shall be sufficient to allege that such offender or such other person as aforesaid, was employed in the Post Office of Canada, at the time of the commission of such offence, without stating further the nature or particulars of his employment.

General allegation of employment of accused in the Post Office of Canada, sufficient.

85. The Postmaster General, (subject always to the orders of the Governor,) may compromise and compound any action, suit or information at any time commenced by his authority or under his control, against any person for recovering any pecuniary penalty incurred under this Act, on such terms and conditions as he in his discretion thinks proper, with full power to him or any of the officers and persons acting under his orders to accept the penalty so incurred or alleged to be incurred, or any part thereof, without action, suit or information brought or commenced for the recovery thereof.

Postmaster General may compromise any action, &c.

86.

Digitized by Google

Penalties to be recoverable with costs, by the Postmaster General, and to belong to the Crown.

86. All mere pecuniary penalties imposed by this Act or by any Regulation of the Postmaster General to be made under it, shall be recoverable with costs by the Postmaster General, by civil action in any Court having jurisdiction to the amount, and shall belong to the Crown, saving always the power of the Governor in Council to allow any part or the whole of such penalty to the Officer or party by whose information or intervention the same has been recovered, as in the case of penalties recovered under other laws relating to the collection of the Revenue;—But all such penalties shall be sued for within one year after they are incurred, and not afterwards:

Limitation of actions for penalties.

Penalty of $40 or under, recoverable before one Justice of the Peace.

If penalty exceed $40, offender may be indicted for a misdemeanor instead.

2. Provided that if the penalty do not exceed forty dollars, it may be recovered before any one Justice of the Peace in a summary manner, and if not paid, may be levied by distress under warrant of such Justice;—And if the penalty exceeds forty dollars, the offender may be indicted for a misdemeanor in contravening the provisions of this Act or of the regulations made under it, (instead of being sued for such penalty) and if convicted, shall be punishable by fine or imprisonment, or both, in the discretion of the Court.

Penalty recoverable on oath of one witness, —who may be a Postmaster or other officer, &c., of the Post Office.

87. In any action or proceeding for the recovery of postage, or of any penalty under this Act, the same may be recovered on the evidence of any one credible witness, and any Postmaster or other officer or servant of the Post Office of Canada, shall be a competent witness, although he is entitled to or entertains reasonable expectation of receiving some portion or the whole of the sum to be recovered; and the *onus* of shewing that any thing proved to have been done by the defendant was done in conformity to or without contravention of this Act, shall lie upon the defendant.

In action against Postmaster or other officer of the Post or his sureties, amount due may be proved by statement of account attested by accountant of the Post Office.

88. In any action, suit or proceeding against any Postmaster or other officer of the Post Office of Canada, or his sureties, for the recovery of any sum of money alleged to be due to the Crown as the balance remaining unpaid of moneys received by such Postmaster or officer by virtue of his office, a statement of the account of such Postmaster or officer shewing such balance, and attested as correct by the certificate and signature of the Accountant of the Post Office of Canada, or of the officer then doing the duties of such Accountant, shall be evidence that such amount is so due and unpaid as aforesaid;—And in every such suit it shall be lawful to demand and the judgment shall be rendered for double the amount proved by such account to be so due to the Crown by the defendant; but nothing herein contained shall be construed to prevent the provisions of any *Act respecting the Collection and Management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants*, from applying to such Postmaster or officer.

Revenue Management Act to apply.

89.

Digitized by Google

89. All suits, proceedings, contracts and official acts to be brought, had, entered into or done by the Postmaster General, shall be so in and by his name of office, and may be continued, enforced and completed by his successor in office as fully and effectually as by himself;—nor shall the appointment or authority of any Postmaster General of Canada, or of any Postmaster, officer or servant of the Post Office of Canada, be liable to be traversed or called in question, in any case, except only by those who act for the Crown:

Suits &c., by the Postmaster General to be brought in his name of office and may be continued, &c., by his successor.

2. And all suits to be commenced for the recovery of debts or balances due to the Post Office, whether they appear by bond or obligation made in the name of the existing or any preceding Postmaster General, or otherwise, shall be instituted in the name of "The Postmaster General."

Suits for debts, &c., to be in the name of "The Postmaster General."

PROTECTION OF OFFICERS.

90. All enactments of any *Act respecting the Customs*, and more especially of the provisions for protecting officers and others employed in collecting duties or in preventing the evasion of the laws imposing duties, when in the performance of the duties of their office, or in respect of suits or proceedings against them for things done or alleged to be done in pursuance of any law, shall extend and apply in like manner to officers and persons employed in or under the Post Office of Canada, and to suits or proceedings against them for things done or alleged to be done under this Act.

Certain provisions of Customs Duties Acts to extend to officers of the Post Office.

91. This Act shall come into operation on the first day of April, one thousand eight hundred and sixty-eight.

Commencement of Act.

CAP. XI.

An Act respecting Banks.

[*Assented to 21st December*, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Preamble.

1. Any Act or Charter incorporating any Bank or Banking Institution, in the late Province of Canada, or in the Province of Nova Scotia or New Brunswick, shall until the first day of January, in the year of our Lord one thousand eight hundred and seventy, and thence until the end of the then next session of the Parliament of Canada, apply and have effect throughout the whole Dominion of Canada, and the Directors of such Bank may open and establish Branches, or Offices of discount and deposit, in any part of Canada.

Banks may have branches in any part of Canada.

2. Every Bank incorporated, chartered or recognized by the Legislature of Nova Scotia or of New Brunswick, shall, on the fifteenth

Banks in Nova Scotia and New Bruns-

Digitized by Google

wick to pay duty on their circulation as in Quebec and Ontario.

fifteenth day of May next, and on each fifteenth day of May and each fifteenth day of November thereafter, deliver to the Receiver General a statement of the total amount in nominal value of the Bank notes issued by it, and in circulation at the end of each month after the first day of January next, for which no previous statement has been made, attested in like manner, in like form, and under the like provisions and penalties as provided with respect to Banks in the Provinces of Ontario and Quebec by chapter twenty-one of the Consolidated Statutes of Canada, with respect to Banks in the said Provinces, and shall, at the time of delivering such statement, pay to the Receiver General a duty at the rate of one per centum per annum, on the average amount by which the Bank Notes therein mentioned as in circulation during the period for which statement is made, have exceeded the average amount of the gold and silver coin or bullion which such Bank has had on hand during the same period,—in the manner and under the provisions in and under which the Banks in the Provinces of Ontario and Quebec are by the said Act bound to pay a like duty.

Amount of duty.

Banks may hold and dispose of mortgages as collateral security.

3. Every Bank incorporated under any Act of the Legislature of the late Province of Canada or of Nova Scotia or New Brunswick, or of the Parliament of Canada, or by Royal charter, may take, hold and dispose of mortgages and hypothèques upon personal as well as real property, by way of additional security for debts contracted to such Bank in the course of its business; and the rights, powers and privileges which any such Bank has or is hereby declared to have or to have had in respect of real estate mortgaged to it, shall be held and possessed by it, in respect of any personal estate which may be mortgaged to it.

May purchase and hold lands mortgaged.

4. Every such Bank may purchase any lands or real estate offered for sale under execution at the suit of the Bank so purchasing, or exposed to sale by the Bank under a power of sale given to it for that purpose, in cases where, under similar circumstances, an individual could so purchase, without any restriction as to the value of the lands which it may so purchase, and may acquire a title thereto as any individual purchasing at Sheriff's sale or under a power of sale, in like circumstances, could do, and may take, have, hold and dispose of the same at pleasure.

May acquire an absolute title therein.

5. Every such Bank may under its existing Charter, acquire and hold an absolute title in or to land mortgaged to it in security for a debt due or owing to it, either by obtaining a release of the equity of redemption in the mortgaged property, or by procuring a foreclosure in any Court of Chancery or of Equity, or by other means whereby, as between individuals, an equity of redemption can by law be barred.

6.

Digitized by Google

6. Nothing in any charter, Act or law shall be construed as ever having prevented or as preventing any such Bank from acquiring and holding an absolute title to and in any such mortgaged lands, whatever the value thereof may be, or from exercising or acting upon any power of sale contained in any mortgage given to it or held by it, authorizing or enabling it to sell or convey away any lands so mortgaged.

May act on power of sale, &c.

7. Notwithstanding any thing to the contrary in the Charter or Act of incorporation of any Bank in this Dominion, any bill of lading, any specification of timber, or any receipt given by a warehouseman, miller, wharfinger, master of a vessel, or carrier, for cereal grains, goods, wares or merchandize, stored or deposited, or to be stored or deposited in any warehouse, mill, cove, or other place in Canada, or shipped in any vessel, or delivered to any carrier for carriage from any place whatever to any part of this Dominion, or through the same, or on the waters bordering thereon, or from the same to any other place whatever, and whether such cereal grains are to be delivered upon such receipt in species or converted into flour, may, by indorsement thereon by the owner of, or person entitled to receive such cereal grains, goods, wares or merchandize, or his attorney or agent, be transferred to any incorporated or chartered Bank in this Dominion, or to any person for such Bank, or to any private person or persons, as collateral security for the due payment of any bill of exchange or note discounted by such Bank in the regular course of its banking business, or any debt due to such private person or persons, and being so indorsed shall vest in such Bank or private person from the date of such indorsement, all the right and title of the indorser to or in such cereal grains, goods, wares or merchandize, subject to the right of the indorser to have the same re-transferred to him, if such bill, note or debt be paid when due; And in the event of the non-payment of such bill or note or debt when due, such Bank or private person may sell the said cereal grains, goods, wares or merchandize, and retain the proceeds or so much thereof as will be equal to the amount due to the Bank or pri ate person upon such bill or note or debt, with any interest or costs, returning the overplus, if any, to such indorser.

Banks and others may advance monies on Bills of lading, specifications, warehouse receipts &c.

May sell the goods in case of non-payment of monies so advanced.

8. But no such cereal grains, goods, wares or merchandize, shall be held in pledge by such bank or private person for any period exceeding six months; and no transfer of any such bill of lading, specification of timber or receipt, shall be made under this Act to secure the payment of any bill, note or debt, unless such bill, note or debt, be negotiated or contracted at the same time with the indorsement of such bill of lading, specification of timber or receipt; and further, no sale of any cereal grains, goods, wares or merchandize, shall take place under this Act until or unless ten days' notice of the time and place of such sale has been given by registered letter transmitted through the Post Office, to the owner of such cereal grains, goods, wares or merchandize prior to the sale thereof.

Period of holding the same in pledge limited.

Notice of sale to be given.

9.

Digitized by Google

Case of the warehouseman &c., being also the owner of the goods provided for.

9. Provided that where any person engaged in the calling of warehouseman, miller, wharfinger, master of a vessel or carrier, by whom a receipt may be given in such his capacity, as hereinbefore mentioned, for cereal grains, goods, wares or merchandize, is at the same time the owner of or entitled himself (otherwise than in his capacity of warehouseman, miller, wharfinger, master of a vessel or carrier,) to receive such cereal grains, goods, wares or merchandize,—any such receipt, or any acknowledgment or certificate intended to answer the purpose of such receipt, given and endorsed by such person, shall be as valid and effectual for the purposes of this Act, as if the person giving such receipt, acknowledgment or certificate, and indorsing the same, were not one and the same person; and the wilfully making any false statement in any such receipt, acknowledgment or certificate, or the wilfully alienating or parting with, or not delivering to the holder or indorsee any cereal grains, goods, wares or merchandize mentioned in such receipt, acknowledgment or certificate, contrary to the undertaking therein expressed or implied,—shall be a misdemeanor, punishable in like manner as any misdemeanor mentioned in section fifteen of this Act.

Penalty for wilful false statement in the receipt, &c.

Advances on such security to give a prior lien.

10. All advances made on the security of any bill of lading, specification, receipt, acknowledgement or certificate shall give and be held to give to the person, Bank or other body corporate making such advances, a claim for the re-payment of such advances on the grain, goods, wares or marchandize therein mentioned prior to and by preference over the claim of any unpaid vendor; any law, usage or custom to the contrary notwithstanding.

Advance on receipts of Cove-keepers, &c., for timber.

11. Notwithstanding anything to the contrary in the Charter or Act of incorporation of any Bank in Canada, any cove receipt, or any receipt given by a Cove-keeper or by the keeper of any wharf, yard, harbor or other place, for timber, boards, deals, staves or other lumber laid up, stored or deposited, or to be laid up, stored or deposited in or on the cove, wharf, yard, harbour or other place in Canada, of which he is the keeper,—or any bill of lading or receipt given by a master of a vessel, or by a carrier for timber, boards, deals, staves or other lumber shipped in such vessel or delivered to such carrier for carriage from any place whatever, to any part of Canada or through the same, or on the waters bordering thereon, or from the same to any other place whatever, may, by indorsement thereon, by the owner of or person entitled to receive such timber, boards, deals, staves or other lumber, or his attorney or agent, be transferred to any incorporated or chartered bank in Canada, or to any person for such bank, or to any private person or persons, as collateral security for the due payment of any bill of exchange or note discounted by such bank in the regular course of its banking business, or of any debt due to such private person or persons, and being so indorsed shall vest in

Effect of the

Digitized by Google

in such bank or private person, from the date of such indorsement, all the right and title of the indorser, to or in such timber, boards, deals, staves or other lumber, subject to the right of the indorser to have the same re-transferred to him, if such bill, note or debt be paid when due; and in the event of the non-payment of such bill or note or debt when due, such bank or private person may sell the said timber, boards, deals, staves or other lumber, and retain the proceeds, or so much thereof as will be equal to the amount due to the bank or private person upon such bill or note or debt, with any interest or costs, returning the overplus, if any, to such indorser.

transfer of such receipt, &c.

Power to sell in case of non-payment of advances.

12. When any person engaged in the calling of Cove-keeper, or of keeper of any wharf, yard, harbour or other place, or of master of a vessel or carrier, by whom a receipt or bill of lading may be given in such his capacity, as hereinbefore mentioned, for timber, boards, deals, staves or other lumber, is at the same time the owner of or entitled himself (otherwise than in his capacity of Cove-keeper, or of keeper of a wharf, yard, harbour or other place, or of master of a vessel or carrier) to receive such timber, boards, deals, staves or other lumber, any such receipt or bill of lading, or any acknowledgment or certificate intended to answer the purpose of such receipt or bill of lading, given and indorsed by such person, shall be as valid and effectual for the purpose of this Act, as if the person giving such receipt or bill of lading, acknowledgment or certificate, and indorsing the same, were not one and the same person.

If the Cove-keeper, &c., be himself the owner of the lumber.

13. But no timber, boards, deals, staves, or other lumber, shall be held in pledge by such bank or private person, for any period exceeding twelve calendar months; and no transfer of any such receipt or bill of lading shall be made under this Act to secure the payment of any bill, note or debt, unless such bill, note or debt is negotiated or contracted at the same time with the indorsement of such receipt or bill of lading; and further, no sale of any timber, boards, deals, staves or other lumber, shall be made under this Act, until nor unless thirty day's notice of the time and place of such sale shall have been given by registered letter transmitted through the Post Office, to the owner of such timber, boards, deals, staves, or other lumber, prior to the sale thereof; and every such sale shall be made by public auction after notice thereof by advertisement, stating the time and place thereof, for at least eight days consecutively, in at least two daily newspapers published in or nearest to the place where such sale is to be made; and if such place be in the Province of Quebec, then at least one of such newspapers shall be a newspaper published in the English language, and at least one other of such newspapers shall be a newspaper published in the French language; and in all cases a daily newspaper shall be deemed to be published nearest to a place if no other daily newspaper be published in the same language in or nearer to such place, if in the Province of Quebec, or

Period of holding the lumber in pledge limited.

Notice of sale how to be given.

Digitized by Google

or if no two other daily newspapers are published in or nearer to such place if in any other Province in Canada; and if in any place where any such sale by auction is to be made, there be not any newspaper published daily in either language, but some newspaper or newspapers be published there in such language less often than daily, then such advertisement shall also be published in every issue of such local newspaper, or of at least one of such local newspapers, during the time in which it would otherwise be published in daily newspapers.

Advances on such security to give priority of lien.

14. All advances made on the security of any such cove receipt or bill of lading, or receipt, acknowledgment or certificate as aforesaid, shall give and be held to give to the person, bank or other body corporate making such advances, a claim for the repayment of such advances on the timber, boards, deals, staves or other lumber therein mentioned, prior to and by preference over the claim of any unpaid vendor or other creditor, save and except claims for wages of labor performed in making and transporting such timber, boards, deals, staves, or other lumber, any law, usage or custom to the contrary notwithstanding.

Punishment of persons giving false receipts, &c., under this Act.

15. If any Miller, Warehouseman, Master of a vessel, Forwarder, Carrier, Wharfinger, Keeper of a Cove, Yard, Harbour or other place for storing timber, deals, staves, boards or other lumber, Factor, Agent or other person, or any clerk or person in his employ, knowingly and wilfully gives to any person any writing purporting to be a receipt for or an acknowledgment of any cereal grain, timber, deals, staves, boards or other lumber, or other goods, wares, merchandize or property as having been received in his Warehouse, Vessel, Cove, Wharf or other place, or in any such place about which he is employed, or as having been in any other manner received by him or the person in or about whose business he is employed, before the goods or property named in such receipt, acknowledgment or writing have been actually so received by or delivered to him or his employer, with the intent to mislead, deceive, injure or defraud any person or persons whomsoever, although such person or persons may be then to him unknown; or if any person knowingly and wilfully accepts or transmits or uses any such false receipt, acknowledgment or writing,—

Or accepting or using the same knowingly.

the person giving and the person accepting, transmitting or using such false receipt, acknowledgment or writing shall severally be guilty of a misdemeanor, and shall on conviction be liable to be imprisoned in the Penitentiary for the Province where the offence is committed for any term not exceeding three years nor less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years but not less than one year, in the discretion of the Court before which the conviction shall be had.

16.

Digitized by Google

16. If any offence in the next preceding section mentioned be committed by the doing of any thing in the name of any firm, company or copartnership of persons, the person by whom such thing is actually done, or who connives at the doing thereof, shall be deemed guilty of the offence and not any other person.

If the offence be committed in the name of a firm.

17. No Bank shall after the passing of this Act incur any penalty or forfeiture for usury; and any Bank may stipulate for, take, reserve or exact any rate of interest or discount not exceeding seven per centum per annum, and may receive and take in advance any such rate, but no higher rate of interest shall be recoverable by any Bank; any rate of interest whatever may be allowed by any Bank upon money deposited with it.

Banks exempted from penalty for usury.

Rate of interest recoverable.

May allow any rate.

18. Any Bank or Banking Institution carrying on business as such in Canada, may, in discounting at any of its places of business, branches, agencies or offices of discount or deposit, any note, bill, or other negotiable security or paper payable at any other of its own places or seats of business, branches, agencies or offices of discount and deposit in Canada, receive or retain in addition to the discount any amount not exceeding the following rates per centum, according to the time it has to run, on the amount of such note, bill or other negotiable security or paper, to defray the expenses attending the collection thereof; that is to say: under thirty days, one eighth of one per cent,—thirty days or over, but under sixty days, one fourth of one per cent,—sixty days and over, but under ninety days, three eighths of one per cent,—ninety days and over, one half of one per cent.

Rates of premium on notes discounted elsewhere than where payable, but payable at any branch of the Bank discounting.

19. Any Bank or Banking Institution carrying on business as such in Canada, may in discounting any note, bill or other negotiable security or paper, *bona fide* payable at any place in Canada different from that at which it is discounted, and other than one of its own places or seats of business, branches, agencies or offices of discount and deposit in Canada, receive and retain in addition to the discount thereon, a sum not exceeding one half of one per centum on the amount thereof, to defray the expenses of agency and charges in collecting the same.

The same when payable elsewhere than at a branch of the Bank discounting.

20. This Act shall be in force until the first day of January, in the year of our Lord one thousand eight hundred and seventy, and thence until the end of the then next session of Parliament and no longer.

Duration of this Act.

Digitized by Google

CAP. XII.

An Act respecting the Public Works of Canada.

[*Assented to 21st December*, 1867.]

Preamble.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Department of Public Works.

Department and Minister of Public Works.

1. There shall be one Department of Public Works for Canada, over which the "Minister of Public Works" for the time being, appointed by commission under the Great Seal of Canada, shall preside and have the management and direction of the Department, and shall hold office during pleasure.

Deputy, Secretary, Chief Engineer and other officers.

2. The Governor may also appoint a Deputy of the Minister of Public Works, who shall be Chief Officer of the Department, a Secretary for the Department, a Chief Engineer, and such other officers as may be necessary for the proper conduct of the business of the Department, all of whom shall hold office during pleasure.

Temporary Engineers, &c.

3. The Governor may also appoint from time to time as many Engineers, Superintendents, and other Officers as he may deem necessary, for the construction, maintenance, use, and repair of Public Works and Buildings, and may at his pleasure remove them or either of them.

Duties and power of the Deputy.

4. It shall be the duty of the said Deputy, and he shall have authority, (subject always to the Minister,) to oversee and direct the other officers and servants of the Department; he shall have the general control of the business of the Department, and such other powers and duties as may be assigned to him by the Governor in Council, and in the absence of the Minister and during such absence, may suspend from his duties any officer or servant of the Department who refuses or neglects to obey his directions as such Deputy.

Duties of the Secretary.

5. It shall be the duty of the Secretary, unless otherwise directed in any case by the Minister, to keep separate accounts of the moneys appropriated for, and expended on each Public Work and building; to submit the said accounts to be audited in such manner as may be appointed by the Governor in Council; to have charge of all plans, contracts estimates, documents, titles, models, and other like things relating to any such work or building; to keep proper accounts with each contractor and other person employed by the Department; to see that all contracts are properly drawn out and executed

Digitized by Google

executed; to prepare all certificates upon which any warrant is to issue; to keep minutes of all the proceedings of the Department, to prepare reports, and to conduct, under the direction of the Minister, the correspondence of the Department, and generally, to do and perform all such acts and things pertaining to the business of the Department, as he may from time to time be directed to do and perform by the Minister; and a copy of any map, plan or other document in the custody and charge of the Secretary, certified by him as a true copy, shall be held to be authentic, and shall be *primâ facie* of the same legal effect as the original, in any Court or elsewhere.

Copies of documents certified by him to be authentic.

6. It shall be the duty of the Chief Engineer to prepare maps, plans, and estimates for all Public Works which are about to be constructed, altered or repaired by the Department; to report for the information of the Minister, on any question relating to the Public Works which may be submitted to him; to examine and revise the plans, estimates and recommendations of other Engineers and officers, and generally to advise the department on all engineering questions affecting the public works of the Dominion.

Duties of Chief Engineer.

7. No deeds, contracts, documents or writings shall be deemed to be binding upon the Department or shall be held to be acts of the said Minister, unless signed and sealed by him or his deputy, and countersigned by the Secretary.

What acts only shall bind the Department.

8. All actions, suits and other proceedings at law or in equity, for the enforcement of any contract, agreement, or obligation in respect of any public work, building, or property under the control of the Department, shall be instituted in the name of Her Majesty's Attorney General for Canada.

Actions for enforcing contracts, &c.

9. The Governor may from time to time require any person or corporation, or any provincial authority, having the possession or custody of any maps, plans, specifications, estimates, reports or other papers, books, drawings, instruments, models, contracts, documents or records, not being private property, and relating to any public work, building or property which is now or which may hereafter be placed under the control of the Department of Public Works, to deliver the same without delay to the Secretary of the Department.

Recovering possession of maps, plans, &c., relating to Public Works.

10. The Canals, Locks, Dams, Hydraulic Works, Harbors, Piers and other works for the improving the navigation of any water,—the slides, dams, piers, booms and other works for facilitating the transmission of timber,—the roads and bridges, the public buildings, the railways and rolling stock thereon, the vessels, dredges, scows, tools, implements and machinery for the improvement of navigation,—the Provincial Steamers, and all other property heretofore acquired, constructed, repaired, maintained or improved at the expense either of the late

What works shall be under the control of the Department.

Digitized by Google

Province of Canada or of New Brunswick or Nova Scotia, and also the works and properties acquired or to be acquired, constructed or be constructed, repaired or improved at the expense of Canada,—and also all such portions of the property known as the "Ordnance Property" transferred to the late Provincial Government of Canada by the Imperial Government and afterwards placed under the control of the Department of Public Works,—shall be and shall continue to be vested in Her Majesty and under the control and management of the Minister of Public Works, with the following exceptions, viz:—

Exceptions.

1st. Such public works and property as have been or may hereafter be lawfully transferred to either of the Provinces of Ontario, Quebec, Nova Scotia or New Brunswick;

2nd. Such public works and property as have been or may hereafter be leased, sold, or otherwise lawfully transferred to municipalities, incorporated companies or other parties, unless the same are subject to be and are resumed by Her Majesty in virtue of the provisions of any Act, or of any lease, sale or transfer thereof, or relating thereto;

3rd. Such public works and property as may by any Act of the present Session be placed under the control and management of any other Minister or Department;

4th. Such public works, roads, bridges, harbors or property as have been or may hereafter be, by Proclamation, abandoned or left to the control of municipal or local authorities.

Other works may be so placed by Proclamation.

11. The Governor may, from time to time, by Proclamation, declare any other works, roads, bridges, harbours, slides, light-houses or buildings purchased or constructed at the public expense, and which have not been assigned to any provincial government, to be works, roads or buildings subject to the provisions of this Act, and they shall thenceforth be under the management of the department.

Existing contracts, &c., continued.

12. All contracts, bonds, agreements or leases for or respecting any work or building, now the property of Canada, or for any tolls for the same, entered into by the Commissioner of Public Works of the late Province of Canada, or by the Board of Works of the Province of Nova Scotia or of the Province of New Brunswick, or by any commissioners or other persons duly authorized to enter into the same, shall enure to the use of Her Majesty, and may be enforced as if they had been entered into with Her Majesty under the authority of this Act.

Lands, water-courses, &c., acquired for Public Works,

13. All lands, streams, water-courses and property acquired for the use of Public Works or Buildings, shall be vested in Her Majesty, and when not required for the said works or buildings,

Digitized by Google

buildings, may be sold or disposed of under the authority of the Governor, and all hydraulic powers created by the construction of any public work, or the expenditure of public money thereon, shall be vested in Her Majesty, and any portion thereof not required for the public works, may be sold or leased under the authority aforesaid; and the proceeds of all such sales and leases shall be accounted for as public money.

how vested and managed.

Proceeds of sales or leases.

14. All public works and buildings hereafter constructed or completed at the expense of Canada, shall, unless otherwise provided by law, be under the control of the Department and subject to the provisions of this Act.

All Public Works paid for by the Dominion to be under control of Department.

15. The Minister shall direct the construction, maintenance and repair of all canals, harbours, roads or parts of roads, bridges, slides and other public works or buildings, in progress or constructed, or maintained at the expense of Canada, and which by this Act are or shall hereafter be placed under his management and control; but nothing in this Act shall give authority to the Minister to cause expenditure not previously sanctioned by Parliament, except for such repairs and alterations as the necessities of the public service may demand.

Expenditure for construction or repair of works.

16. No warrant shall be issued for any sum of the public money appropriated for any public work under the management of the said Minister, except on the certificate of the Minister or his deputy, that such sum ought to be paid to any person named in the certificate, in whose favor a warrant may then issue, which warrant shall in all cases be deemed a legal tender to such person.

Warrants for money for Public Works.

17. The Minister or his deputy may require any account sent in by any contractor, or any person in the employ of the Department, to be attested on oath, which oath as well as that to be taken by any witness, the Minister or his deputy may administer.

Attesting accounts of contractors.

18. The Minister may send for, and examine, on oath, all such persons as he deems necessary, touching any matter, upon which his action is required, and may cause such persons to bring with them such papers, plans, books, documents and things, as it may be necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements, and such persons shall attend at the summons of the Minister after due notice, under the penalty of five pounds in each case.

Power to examine persons on oath.

19. The Minister shall make and submit to the Governor, an annual Report on all the works under his control, to be laid before both Houses of Parliament within twenty-one days from the commencement of each Session, showing the state of each work

Annual report to the Governor, to be laid before Parliament.

Digitized by Google

work and the amounts received and expended in respect thereof, with such further information as may be requisite.

Tenders to be invited for works; exception.

20. It shall be the duty of the Minister to invite tenders by public advertisement for the execution of all works, except in cases of pressing emergency, where delay would be injurious to the public interest, or where, from the nature of the work, it could be more expeditiously and economically executed by the officers and servants of the Department.

Security to be taken from contractors.

Provision when the lowest tender is not taken.

21. The Minister, in all cases or where any public work is being carried out by contract, shall take all reasonable care that good and sufficient security be given to and in the name of Her Majesty, for the due performance of the work, within the amount and time specified for its completion; and also in all cases where it seems to the Minister not to be expedient to let such work to the lowest bidder, it shall be his duty to report the same and obtain the authority of the Governor previous to passing by such lowest tender; but no sum of money shall be paid to the contractor on any contract, nor shall any work be commenced until the contract has been signed by all the parties therein named, nor until the requisite security shall have been given.

POWER TO TAKE LANDS, &c.

Power to make surveys, &c.

22. The Minister is hereby empowered to authorize the engineers, agents, servants and workmen employed by or under him to enter into and upon any ground to whomsoever belonging, and to survey and take levels of the same, and to make such borings or sink such trial pits as he deems necessary, for any purpose relative to the works under his management.

Certain persons employed by the Department to have like powers as to surveys, as if they were licensed surveyors for the Province where they act for the Department.

23. The Minister may employ any Engineer, or any person duly licensed or empowered to act as a Surveyor for any Province in Canada, to make any survey, or establish any boundary, and furnish the plans and descriptions of any property acquired or to be acquired by Her Majesty for the use of Canada; and such surveys, boundaries, plans and descriptions shall have the same effect as if the operations pertaining thereto or connected therewith, had been performed by a Land Surveyor duly licensed and sworn in and for the Province in which the property is situate; and the boundaries of such properties may be permanently established by means of proper stone or iron monuments, planted by the Engineer or Surveyor so employed by the Minister, and shall be of the same effect to all intents and purposes as if such boundaries had been drawn and such monuments planted by a Land Surveyor duly licensed and sworn for the Province in which the property is situate; and shall be held to be the true and unalterable boundaries of such property,—provided such boundary lines are so established and such

Digitized by Google

such monuments of iron or stone are planted after due notice thereof has been given in writing to the proprietors of the lands to be thereby affected, and that a *Procès-verbal* or written description of such boundaries is approved and signed, in the presence of two witnesses, by such Engineer or Surveyor on behalf of the Minister, and by the other parties concerned; or that in case of the refusal of any party to approve or to sign the same, such refusal is recorded in such *Procès-verbal* or description; and provided such boundary marks or monuments are planted in the presence of at least one witness, who shall sign the said *Procès-Verbal* or description, which shall afterwards be deposited with the Secretary of the Department, as part of the records of his office.

24. The Minister may at all times acquire and take possession, for and in the name of Her Majesty, of any land or real estate, streams, waters, and water courses, the appropriation of which is in his judgment necessary for the use, construction and maintenance of any Public Work or building, or for the use, construction or maintenance of hydraulic privileges made or created by, from or at any Public Work, or for the enlargement or improvement of any Public Work or for obtaining better access thereto; and he may for such purpose contract and agree with all persons, seigniors, bodies corporate, guardians, tutors, curators and trustees whatsoever, not only for themselves, their heirs, successors and assigns, but also for and on the behalf of those whom they represent whether infants (minor children) absentees, lunatics, married women, or other persons otherwise incapable of contracting, possessed of or interested in such lands, real property, streams, water and water courses, and all such contracts and agreements, and all conveyances or other instruments made in pursuance of any such contract or agreement shall be valid to all intents and purposes whatever.

Power to take possession of and to acquire lands.

Parties enabled to contract.

25. The Minister and his agents may enter upon any uncleared or wild land, and take therefrom all timber, stones, gravel, sand, clay or other materials, which he or they may find necessary for the construction, maintenance and repair of Public Works or buildings under his management, or may lay any materials or things upon any such land, for which compensation shall be made at the rate agreed on or appraised and awarded as herein provided; and the Minister may make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits, required by him for the convenient passing to and from the works during their construction and repair, and may enter upon any land for the purpose of making proper drains to carry off the water from any public work, or for keeping such drains in repair, making compensation as aforesaid.

Power to take materials from uncleared lands.

26.

Digitized by Google

Payment of compensation.

26. The compensation agreed on between the parties, or appraised and awarded in the manner hereinafter set forth, shall be paid for such land, real property, streams, waters and water courses, timber, stone or other material, to the owners or occupiers of such lands or property, or to the persons suffering such damage as aforesaid, within six months after the amount of such compensation has been agreed on or appraised and awarded.

Notice, and tender before taking possession.

27. When any such owner or occupier, refuses or fails to agree for conveying his estate or interest in any land, real property, streams or water courses as aforesaid, the Minister may tender the reasonable value in his estimation of the same, with notice that the question will be submitted to the arbitrators hereinafter mentioned; and in every case the Minister may, three days after such agreement or tender and notice, authorize possession to be taken of such land, real property, streams or water courses so agreed or tendered for.

Notice when the owners do not reside on the land.

28. If the owners of such land, real property, streams or water courses, do not reside on or near the property so required, then notice shall be given in the "Canada Gazette," and in two newpapers published in or near the District or County in which such property is situate, of the intention of the Minister to cause possession to be taken of such lands, or real property, streams or water courses, and after ten days from the publication of the last notice possession may be taken accordingly.

Power to alter the line of any public road.

29. The Minister may discontinue or alter any part of a public road, where it is found to interfere with the proper line or site of any Public Work, as aforesaid; but before discontinuing or altering such public road he shall substitute another convenient road in lieu thereof; and the land theretofore used for any road, or part of a road, so discontinued may be transferred by the Minister to, and shall thereafter become the property of the owner of the land of which it originally formed part.

Removal of fences adjoining any Public Work, and construction of ditches.

30. Whenever it is necessary in the prosecution of any Public Work, for the Minister or his contractors or servants to take down or remove any wall or fence of any owner or occupier of lands or premises adjoining such Public Work, or to construct any back ditches or drains for carrying off the water accumulating behind the banks of any Public Canal, the Minister or contractors or their authorized servants shall replace such wall or fence as soon as the necessity which caused their being taken down or removed has ceased, and after the same has been so replaced, or when such drain or back ditch is completed, the owner or occupier of such lands or premises shall maintain such walls or fences, drains or back ditches to the same extent as such owner or occupier might be by law required to do, if such walls or fences had never

Obligations of land owners.

Digitized by Google

never been so taken down or removed, or such drains or back ditches had always existed.

OFFICIAL ARBITRATORS.

31. The Governor may, from time to time, constitute a Board of Arbitration and appoint any number of persons not exceeding four, who shall be arbitrator or arbitrators and appraiser or appraisers for Canada, and who shall arbitrate on, appraise, determine and award the sums which shall be paid to any person for land or property taken for any Public Work, or for loss or damage caused by such taking, or in respect of any claim arising out of any contract, and with whom the said Minister has not agreed, and cannot agree; and every such arbitrator shall receive such remuneration as shall be from time to time fixed by the Governor. How appointed, and for what purpose. Remuneration.

32. The said arbitrator or arbitrators shall take, before the said Minister or some one of Her Majesty's Justices of the Peace, the following oath: Oath of office.

"I, A. B., do swear that I will well and truly hear, try and "examine into such claims as may be submitted to me for "compensation for land or property taken possession of for the "use and purposes of [or *as the case may be*,] and that I will "also well and truly examine into such claims as may be sub-"mitted to me for compensation for damages consequent upon "the construction of any public work, or for payment or allow-"ance in respect of any contract; and that I will give a true "judgment and just award thereon to the best of my knowledge "and ability; and that I will take into due consideration, the "benefits derived and to be derived by the claimants through "the construction of such public work as well as the injury "done thereby. So help me God." Form.

33. The Governor may appoint one or more proper persons to act as clerk or clerks to the said Arbitrator or Arbitrators, and may remove any such clerk and appoint another or others, whenever he sees fit; and may fix the amount of the remuneration to be allowed any such clerk. Clerk to the arbitrators.

WHAT CASES MAY BE REFERRED TO ARBITRATION.

34. If any person or body corporate has any claim for property taken, or for alleged, direct or consequent damage to property, arising from the construction, or connected with the execution of any public work, undertaken, commenced or performed at the expense of the Dominion, or of the late Province of Canada, or of the Province of Nova Scotia or New Brunswick, or for the defence of Canada, or any claim arising out of or connected with the execution or fulfilment, or How and in what cases claims are to be made.

Digitized by Google

or on account of deductions made for the non-execution or non-fulfilment of any contract for the construction of any such public work, made and entered into with the said Minister, either in the name of Her Majesty, or in any other manner whatsoever, or with any Board or Commissioners lawfully authorized to enter into the same on behalf of the late Province of Canada, or of the said Provinces of Nova Scotia or New Brunswick, such person or body corporate may give notice in writing of such claim to the said Minister, stating the particulars thereof, and how the same has arisen;—And thereupon the Minister may at any time within thirty days after such notice tender what he considers a just satisfaction for the same, with notice that the said claim will be submitted to the decision of the Arbitrators acting under this Act, unless the sum so tendered is accepted within ten days after such tender, which shall be deemed to be legally made by any written authority for the payment of such sum given under the hand of the Minister, and notified to the person or body corporate having such claim;—And a tender so made shall be sufficient likewise in case of tender of compensation by the Minister under any other section of this Act;

Tender of satisfaction by the Minister.

Form of tender by Minister.

Security for costs by claimant.

2. But before any claim under this or any other section of this Act shall be arbitrated upon, the claimant shall give security to the satisfaction of the Arbitrators (or any one of them), for the payment of the costs and expenses incurred by the Arbitration in the event of the award being against such claimant or of its not exceeding the sum so tendered as aforesaid.

Claim may be referred to one or more of the Arbitrators.

35. The Minister may refer any of the claims aforesaid either to one or to any greater number of arbitrators as he may see fit; and except in case of appeal as hereinafter provided, when the claim has not been referred to the whole Board,—the award of the sole arbitrator shall be binding if there be only one, and the award of a majority of the said arbitrators if there be three or more acting in the case, shall be binding as if made by all the arbitrators; and in any case where the claim is referred to more than one of the arbitrators, any one of them may receive the evidence and hear the parties, and may exercise all the powers of the arbitrators preliminary or incident to the hearing and to the taking of the evidence, which shall thereafter be submitted to all the arbitrators to whom the case is referred, and the award of the majority of whom shall be binding, except in case of appeal as aforesaid.

One Arbitrator may take the evidence, &c.

No arbitration in cases where the contrary is provided by the contract.

36. No arbitration shall be allowed in any case where by the terms of the contract therein it is provided that the determination of any matters of difference arising out of or connected with

Digitized by Google

with ne same shall be decided by the Minister, or the Architect, or by any Engineer or Officer of the Department.

37. No claim for land or other property alleged to have been taken for, or injured by, the construction, improvement, maintenance, or management of any Public Work, or for damages alleged to have been occasioned directly or indirectly to any such land or other property by the construction, maintenance or management of any such Public Work,—and no claim arising out of, or connected with the execution or agreement for the construction of any such Public Work, or of any part thereof,—shall be submitted to, or be entertained by the arbitrators under this Act, unless such claims and the particulars thereof have been filed with the Secretary of the Department, within twelve calendar months next after the loss or injury complained of, when such claim relates to the taking of, or damage occasioned to, land or other property,—and when such claim relates to, or is alleged to arise out of, the execution or fulfilment of any contract or agreement for the construction of any Public Work, unless the same has been filed as aforesaid, within three calendar months next after the date of the final estimate made under such contract; but nothing in this section shall prevent the arbitrators from entertaining, investigating or awarding upon any claims filed in the proper Office within the delay allowed by any Act then in force in the Province in which such work was constructed.

Limitation of time within which claims must be made.

Proviso: as to claims filed under former Acts.

POWERS OF THE ARBITRATORS, AND PROCEEDINGS BY OR BEFORE THEM.

38. The said Arbitrator or Arbitrators may, by summons or order in writing, signed by any one of them or by their Clerk, to be left at the last usual place of residence of the party to whom it is addressed, command the attendance from any part of Canada, of all witnesses or the production of any documents required by any of the parties, and may swear the said witnesses to testify truly respecting the matters on which they are to be interrogated;—and the disobedience of such summons or order in writing, or neglect to attend and produce such documents shall subject the party disobeying, neglecting or refusing to a penalty of not less than five dollars nor more than twenty-five dollars to be recovered before any Justice of the Peace and levied under the warrant of such Justice, by distress and sale of the goods and chattels of the offender unless the party establishes reasonable cause for such disobedience, neglect or refusal.

Power to summon witnesses.

Penalty for non-attendance.

2. But no person shall be compelled to produce any document that he would not be compelled to produce at a trial in the Queen's Bench, Common Pleas, Supreme Court or Superior Court; or to attend as a witness more than three consecutive days, and every witness shall be allowed in addition to his reasonable

As to documents to be produced.

Digitized by Google

Allowance to witnesses.

reasonable travelling expenses, a sum not exceeding five shillings a day at the discretion of the arbitrators ; and such remuneration shall be paid by the party requiring his attendance.

Arbitrators to consider the advantages as well as disadvantages of the work to the claimant.

39. The arbitrators shall consider the advantage as well as disadvantage of any Public Work, as respects the land, or real estate of any person through which the same passes or to which it is contiguous, or as regards any claim for compensation for damages caused thereby; and the arbitrators shall, in assessing the value of any land or property taken for the purpose of any Public Work, or in estimating and awarding the amount of damages to be paid by the Department to any person, take into consideration the advantages accrued, or likely to accrue to such person or his estate, as well as the injury or damages occasioned by reason of such work.

Value to be estimated as at the time of taking possession; &c.

40. The Arbitrators, in estimating and awarding the amount to be paid to any claimant for injury done to any land or property, and in estimating the amount to be paid for lands taken by the Minister, under this Act, or taken by the proper authority under any former Act, shall estimate or assess the value thereof at the time when the injury complained of was occasioned, and not the value of the adjoining lands at the time of making their award.

Awards upon contracts.

41. In awarding upon any claim arising out of any contract in writing, the Arbitrators shall decide in accordance with the stipulations in such contract, and shall not award compensation to any claimant on the ground that he expended a larger sum of money in the performance of his contract, than the amount stipulated therein, nor shall they award interest on any sum of money which they consider to be due to such claimant, in the absence of any contract in writing, stipulating payment of such interest;—And no clause in any such contract in which a drawback or penalty is stipulated for the non-performance of any condition thereof, or any neglect to complete any public work, or to fulfil any covenant in such contract shall be considered as comminatory, but it shall be construed as importing an assessment by mutual consent, of the damages caused by such non-performance or neglect.

How penalties in contracts shall be construed.

Evidence to be taken in writing.

42. In the investigation of any claim the Arbitrators shall cause all legal evidence offered on either side to be taken down and recorded in writing, and shall make and keep a list of all plans, receipts, vouchers, documents and other papers which may be produced before them during such investigation; but they may, with the consent in writing of the Minister, and of the opposite party, take the testimony of the witnesses adduced on either side orally, and in such case need not reduce it to writing.

Except by consent.

Digitized by Google

43. The Arbitrators shall deliver to the Minister, a copy of their award in each case, and to each individual claimant a copy of so much thereof as relates to his particular claim, within one month after they have agreed to the same.

Copies of awards to be furnished.

44. If in any case where a claim has, under the thirty-fifth section, been referred to one Arbitrator, or to more than one Arbitrator but not to the whole Board, the claimant is dissatisfied with the award made, such claimant may, by notice in writing delivered to any Arbitrator who has joined in the award, or the Clerk of the Board, within one month after the award has been notified to the claimant, pursuant to the forty-third section of this Act, appeal to the Board of Arbitration, and it shall be the duty of the Board to hear the appellant, and to make such decision and award as to them, or a majority of them, may seem just, from which decision and award there shall be no further appeal whatever.

Appeal to the whole Board in cases, where all the Arbitrators have not acted.

45. In case of such appeal, the appellant shall have no right to adduce further evidence than that already given on the original reference, unless he shews to the satisfaction of the Board that his knowledge of the existence of such further evidence has arisen since the first hearing of the case, or unless the Board shall think it right on hearing the claimant to admit further evidence.

In what case only new evidence may be adduced on appeal.

46. The Clerk to the arbitrators shall, on payment at the rate of six pence for every hundred words and one shilling additional for every certificate, deliver to any person requiring the same, certified copies of any depositions or papers taken or filed before the arbitrators.

Copies of depositions, &c.

47. If the sum awarded in any case is greater than the sum tendered, the Minister shall pay the costs of arbitration, but if less, the costs shall be paid by the person who refused the tender.

By whom the costs shall be paid.

48. And such costs shall in other cases where the award is in favor of the claimant, be paid by the Minister, in addition to the sum awarded, and shall in either case be taxed by the proper officer of the Court of Queen's Bench, Supreme Court or Common Pleas, in the Provinces of Ontario, Nova Scotia and New Brunswick, and in the Province of Quebec by a Judge of the Superior Court.

The same, and how taxed.

WORKS FOR DEFENCE.

49. The Governor in Council may declare any work for or connected with the defence of Canada, to be a Public Work within the purview of this Act, whether such work is to be constructed or the land required for it is to be acquired, wholly

Works for defence may be declared Public Works within this Act.

Digitized by Google

wholly at the expense of Canada, or partly, or wholly at the expense of the Imperial Government; and all the powers conferred upon the Minister of Public Works, and upon the Official Arbitrators or any of them, by the sections of this Act numbered from twenty-two to forty-eight both inclusive, and all the provisions of the said sections, shall then extend and apply to such work, and to the lands and property required for the same, as shall also such other sections and provisions of this Act as the Governor in Council may from time to time direct.

Powers of the Minister to extend to the exercise of clearance rights.

50. With respect to any work so declared to be a Public Work, the powers of the Minister of Public Works shall extend to the demolition and removal of all such buildings, walls, woods, trees, fences, or other obstructions natural or artificial, and to the filling up of such hollows, natural or artificial, on any land, as would in the opinion of the Engineers, civil or military, employed on such work, impair the effect thereof, and to the preventing the construction or existence of any such obstruction thereafter, without acquiring the land itself; and the said Minister or his agents may, after notice as provided by sections twenty-seven and twenty-eight and tender of reasonable compensation in his estimation for the right intended to be exercised, enter upon any such lands and cause the required work to be performed, and may at any time thereafter again enter thereupon and remove any such obstruction so as to restore the land to the state in which it was after the first performance of such work; and if the renewal of any such obstruction has been caused by the fault of the owner of the lands, or of those through whom he claims, the cost of removing it may be recovered from him by the said Minister; and the compensation to be paid for the exercise of the powers given by this section shall, if not agreed upon by the parties, be determined by the official arbitrators above mentioned.

Compensation to be fixed by Arbitrators.

Powers of H. M. Principal Secretary of State for the War Department, under former Acts, saved.

51. Nothing in this Act shall affect the powers vested in Her Majesty's Principal Secretary of State for the War Department, by the Act of the Legislature of the late Province of Canada, passed in the twenty-ninth year of Her Majesty's Reign, chapter seven (which shall hereafter be construed as referring to this Act and to the Minister and Arbitrators hereinmentioned, instead of the Commissioner and Arbitrators mentioned in the said Act) or by any other Act of the said late Province or of either of the Provinces of Nova Scotia or New Brunswick, or shall affect any provision of any such Act not inconsistent with this Act; And any work in any part of Canada, certified by the commander of Her Majesty's Forces in Canada or in the Province in which such work is or is to be situate, to be required for defence of Canada shall be held to be a Public Work within the meaning of this Act, and the said Principal Secretary of State shall have the same powers and rights with regard to the taking possession of lands

His powers under this Act.

or

Digitized by Google

or materials required for any such work, and with regard to lands required to be cleared and kept cleared of obstructions as aforesaid, as are hereby vested in the Minister, and the price to be paid for such lands or the compensation to be paid for the exercise of such powers and rights, if not agreed upon by the parties, shall be determined by the official Arbitrators appointed under this Act, as if such lands had been taken, or such powers and rights exercised, by the said Minister.

SALE OR TRANSFER OF PUBLIC WORKS TO LOCAL AUTHORITIES.

52. The Governor may by Proclamation declare any Public Road or Bridge under the management and control of the Minister, to be no longer under his control;—And upon, from and after a day to be named in the Proclamation, such road or bridge shall cease to be under the management and control of the Minister, and no tolls shall thereafter be levied thereon under the authority of this Act.

Works may be declared no longer under control of the Minister.

53. Any public road or bridge declared as aforesaid, to be no longer under the management of the Minister, shall be under the control of and shall be maintained and kept in repair by the municipal or other authorities of the locality, and the Road Officers thereof in like manner with other Public Works and Bridges therein under their control.

How they shall then be kept up, &c.

54. The Minister may enter into arrangements with any Provincial Government, Municipal Council or other Local Corporation or authority, or with any Company in Ontario or Quebec, incorporated for the purpose of constructing or holding such work or works of like nature in the same Province—for the transfer to them of any of the Public Roads, Harbours, Rivers or River Improvements, Bridges or Public Buildings (whether within or without the limits of the local jurisdiction of such municipal Councils or other authorities), which it is found convenient to place under their management:—And on the completion of such arrangements, the Governor may grant, and by so granting, transfer and convey for ever or for any term of years, all or any of such Roads, Harbours, Rivers and River Improvements, Bridges or Public Buildings to such Provincial Government, Municipal Council or other Local Authority or Company (hereinafter called the Grantee,) upon such terms and conditions as have been agreed upon; and for and notwithstanding any thing in this or any other Act, the said Governments, Municipal Councils or other Local Authorities may enter into such arrangements and may take and hold any works so transferred.

Power to enter into arrangements for transfer of works, to local authorities, &c.

Tranfer how made.

55. Any such grant may be made by Order in Council, published in the Canada Gazette;—and by such Order any or all of the powers and rights vested in the Crown, or in

Form and effect of transfer.

Digitized by Google

in any officer or Public Department, in respect of such Public work, may be granted to and vested in the grantee to whom the Public work is granted:

Conditions and limitations of the grant.

2. And such Order in Council may contain any conditions, clauses and limitations agreed upon, which, as well as all the provisions of such Order in Council, shall, (in so far as they are not inconsistent with this Act, and do not purport to grant any right or power not immediately before the making of such Order in Council, vested in the Crown or in the Governor, or in some Officer or Department of the Government,) have force and shall be obeyed, as if they had been contained in this Act, and had made part of the enactments thereof;

Revoking or amending the grant.

3. And any such Order in Council may, with the consent of the Grantee, be revoked or amended by any subsequent Order in Council published as aforesaid;—and a copy of the *Canada Gazette* containing any such Order in Council shall be evidence thereof,—and the consent of the Grantee thereto shall be presumed unless disputed by such Grantee, and if disputed, shall be proved by any copy of such Order in Council, on which the consent of the Grantee thereto shall be written and attested by such signature or seal, or both, as would be sufficient to make any Deed or Agreement the Deed or Agreement of such Grantee.

What the conditions of the grant may extend to.

56. The provisions and conditions of any Order in Council made under this Act may extend—to the mode of adjusting and determining any difference arising between the Crown and any Municipal Corporation, Local Authority or Company, as to their respective rights under the same,—or to the reservation of the right of re-entry by the Crown into possession of any Public Work on the default of such Corporation, Authority or Company to perform the conditions agreed upon,—and to the vesting in any Sheriff power to give possession of such Public Work to any Public Officer for the Crown, on any warrant under the hand and seal of the Governor, to be addressed to such Sheriff, reciting such default and commanding him to give possession to such Officer for the Crown as aforesaid;—And no enactment made for the purpose of enforcing the provisions of any such Order in Council as aforesaid, shall be deemed an infringement of the rights of the Municipal Corporation, Local Authority or Company to which it relates, but nothing in this section shall prevent the enforcement of the rights of the Crown in any legal manner not inconsistent with the provisions and conditions of any such Order in Council.

Enactments may be made for enforcing conditions.

Work transferred to be kept in thorough repair.

57. One of the conditions of every such lease or transfer of any Bridge, Road, or Public Work, shall be—that such work shall be kept in thorough repair and that, for all the purposes of such contract, sale or lease, the sufficiency of such repair shall be

Digitized by Google

be ascertained and decided on by such Engineer as shall be appointed to examine the same by the Minister.

TOLLS ON PUBLIC WORKS.

58. The Governor may, by Order in Council to be issued and published as hereinafter provided, impose and authorize the collection of Tolls and Dues upon any Canal, Railway, Harbor, Road, Bridge, Ferry, Slide, or other Public Work, vested in Her Majesty, or under the control or management of the Minister, and from time to time in like manner may alter and change such Dues or Tolls, and may declare the exemptions therefrom; and all such Dues and Tolls shall be payable in advance and before the right to the use of the Public Work in respect of which they are incurred shall accrue, if so demanded by the Collector thereof.

Governor in Council may impose tolls for use of Public Works.

59. The same tolls shall be payable on steamboats or vessels of any kind and passengers, brought down the river St. Lawrence, past any of the Canals between Montreal and Kingston, as would be payable on such steamboats, vessels or passengers, if the same had been brought through the Canal or Canals past which they are so brought down; and such tolls shall be levied in like manner, and under the like penalties and forfeitures for the non-payment thereof.

Tolls on the St. Lawrence canals.

60. Her Majesty's Officers and Soldiers, being in proper uniform, dress or undress (but not when passing in any hired or private vehicle), and all carriages and horses employed in Her Majesty's service, when conveying persons or baggage, shall be exempted from payment of any tolls on using or travelling over any road or bridge under the control of the Department, but nothing herein shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage or stores along any canal, from payment of tolls in like manner as other boats, barges and vessels are liable thereto.

Exemptions from toll in favor of H. M. troops.

Exemption as to canals limited.

61. All tolls and dues imposed under this Act may be recovered, with costs, in any Court having civil jurisdiction to the amount, by the Collector or person appointed to receive the same, in his own name or in the name of Her Majesty, and by any form of proceeding by which debts to the Crown may be recovered:

Recovery of tolls.

2. And all pecuniary penalties imposed by this Act, or by any regulation made under the authority thereof shall be recoverable with costs before any Justice of the Peace for the District, County or place in which the offence was committed, upon proof by confession or by the oath of any one credible witness, and may, if not forthwith paid, be levied by distress and sale of the goods

Recovery of penalties.

Digitized by Google

Levying penalties.

and chattels of the offender, by warrant under the hand and seal of such Justice; And if sufficient distress cannot be found, and such penalty be not forthwith paid, such Justice may, by warrant under his hand and seal, cause the party offending to be committed to the Common Gaol of the District or County, there to remain without bail or mainprize, for such time as such Justice may direct, not exceeding thirty days, unless such penalty and costs be sooner paid;—And such penalties shall belong to Her Majesty for the use of the Dominion;

Appropriation.

As to tolls and dues on timber.

3. Provided always, in respect to tolls and dues on timber passing any slide, and to penalties for violating any regulation respecting such slides, or for non-payment of such tolls and dues, that the same may be enforced, imposed and collected, by and before any Justice of the Peace within any District or County in Canada in which the timber respecting which such tolls or dues, or the person from whom such payment or penalty is demanded, happens to be at the time application is made to such Justice to enforce payment of the same.

Goods on board vessels liable for tolls, &c.

62. The goods on board of any such steamboat, vessel, raft, crib or other craft, or the animal or animals, attached to any carriage or vehicle, and the goods contained therein, to whomsoever the same belong, shall be liable for any Tolls, Dues or Fines so imposed and levied,—and they or any of them, may be seized, detained and sold in the same manner as the steamboat, vessel or other craft, carriage or vehicle, in which they are or to which they are attached, as if they belonged to the person contravening any such Regulation,—saving the recourse of the real owner thereof against such person who shall be deemed the owner for the purposes of this Act.

Moneys from tolls to be paid over to the Receiver General.

63. All tolls, dues or other revenues imposed and collected on Public Works, shall be paid by the persons receiving the same to the Receiver General of Canada, in such manner and at such intervals as may be appointed by him, but such intervals shall in no case exceed one month.

Tolls on public roads may be let out to farm.

64. The Governor may order the Tolls at the several gates erected or to be erected on any public road or bridge vested in the Crown, or under the management of the Minister, to be let to farm under such regulations and by such form of lease as he thinks expedient;—and the lessee or farmer of such Tolls, or any person he may appoint, may demand and take such Tolls, and proceed for the recovery of the same in the name of such lessee or farmer, in case of non-payment or evasion thereof, in the same manner and by the same means as are given by law to any collector of Tolls or other persons authorized to collect the same.

REGULATIONS

Digitized by Google

REGULATIONS FOR USE OF PUBLIC WORKS.

65. And for the due use and proper maintenance of all such Public Works, and to advance the public good—the Governor may, by Order in Council, enact from time to time such Regulations as he may deem necessary for the management, proper use and protection of all or any of the Public Works, or for the ascertaining and collection of the Tolls, Dues and Revenues thereon.

Governor in Council may make regulations for such use.

66. The Governor may, by such Orders and Regulations, impose such Fines, not exceeding in any one case one hundred pounds, for any contravention or infraction of any such Order or Regulation, as he deems necessary for ensuring the observance of the same and the payment of the Tolls and dues to be imposed as aforesaid,—and may also by such Orders and Regulations provide for the non-passing or detention and seizure, at the risk of the owner, of any steamboat, vessel or other craft, carriage, animal, timber or goods, on which Tolls or dues have accrued and have not been paid, or in respect of which any such Orders or Regulations have been contravened or infringed, or any injury done to such Public Works and not paid for, or for or on account of which any fine has been incurred and remains unpaid,—and for the sale thereof, if such Tolls, dues, damages or fine be not paid by the time to be fixed for the purpose, and for the payment of such Tolls, Dues, Damages or Fine out of the proceeds of such sale, returning the surplus, if any, to the owner or his agent; But no such provision shall impair the right of the Crown to recover such Tolls, Dues, Fine or Damages in the ordinary course of law; and any such Tolls, Dues or Fines may always be recovered under the sixty-first section of this Act.

And impose fines for contravention.

Or authorize the seizure and sale of vessels contravening regulations.

Proviso: rights of the Crown saved.

67. And whereas, for the better protection of life and property, as well on the Public Works and Railways of the Dominion, as on Railways managed by Companies in Nova Scotia and New Brunswick, it is expedient to extend to them the provisions made for that purpose as regards Railways managed by Companies in Quebec and Ontario, therefore, if any officer or servant of, or any person employed by the Department on any Railway or Public Work being under the control of the Department, or by any Railway Company in Nova Scotia or New Brunswick, wilfully or negligently contravenes any by-law, order or regulation of the Department, or of the Company, or any Order in Council, lawfully made or in force respecting the Railway or the Public Work on which he is employed, and of which a copy has been delivered to him, or has been posted up or open to his inspection in some place where his work or his duties or any of them are to be performed,—then if such contravention causes injury to any property or to any person, or exposes any property or any person to the risk of injury, or renders such risk greater than it would have been

Recital.

Punishment of persons employed on Public Works and Railways, disobeying regulations lawfully made.

If injury is done by such disobedience, to person or property.

Digitized by Google

been without such contravention, although no actual injury occurs, such contravention shall be a misdemeanor, and the person convicted thereof shall, in the discretion of the Court before whom the conviction is had, and according as such Court considers the offence proved to be more or less grave, or the injury or risk of injury to person or property to be more or less great, be punished by fine or imprisonment or both, so as no such fine exceeds four hundred dollars, nor any such imprisonment the term of five years; and such imprisonment, if for two years or upwards, shall be in the Penitentiary for the Province in which the conviction takes place.

If not such injury is done.

68. If such contravention does not cause injury to any property or person, nor expose any property or person to the risk of injury, nor make such risk greater than it would have been without such contravention, then the officer, servant, or other person guilty thereof shall thereby incur a penalty not exceeding the amount of thirty days pay nor less than fifteen days pay of the offender from the Department or Company, in the discretion of the Justice of the Peace before whom the conviction is had, and such penalty shall be recoverable with costs before any one Justice of the Peace, having jurisdiction where the offence has been committed or where the offender is found, on the oath of one credible witness, other than the informer.

Appropriation of pecuniary penalties.

69. One moiety of any pecuniary penalty under either of the two next preceding sections shall belong to Her Majesty for the public uses of the Dominion, and the other moiety to the informer unless he be an officer or servant of, or person in the employ of the Department or Company, in which case he shall be a competent witness, and the whole penalty shall then belong to Her Majesty for the uses aforesaid.

Regulations, &c., to be published in the Gazette.

70. All Proclamations, Regulations or Orders in Council made under this Act, shall be published in the *Canada Gazette*, and a copy of such Gazette purporting to be printed by the Queen's Printer, and containing any such Proclamation, Order or Regulation, shall be legal evidence thereof.

Repeal of Acts inconsistent with this Act.

71. All Acts and parts of Acts of the late Province of Canada, or of the Province of Nova Scotia or New Brunswick which were in force immediately before the day when this Act comes into effect, shall be repealed upon, from and after that day, so far as they are inconsistent with this Act, and shall be superseded by this Act so far as they make the same provision in effect in any case as is made therein by this Act;—but the enactments in this Act, so far as they are the same in effect as those so superseded, shall be construed as declaratory and as having been in force from the time when the enactments they supersede respectively became law;—so that (among other things) all rights acquired, all appointments made and all proceedings commenced under any such enactments shall remain valid and be continued under

Effect of repeal limited.

Digitized by Google

under the corresponding enactments of this Act, as being in effect the same law ; and no Act or Enactment repealed by any Act or Enactment hereby repealed shall revive by reason of such repeal.

CAP. XIII.

An Act respecting the construction of "The Intercolonial Railway."

[*Assented to 21st December*, 1867.]

Preamble.

WHEREAS the Provinces of Canada, Nova Scotia and New Brunswick joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the Union of British North America, and to the assent thereto of Nova Scotia and New Brunswick ; and consequently agreed that provision should be made for its immediate construction by the Government of the Dominion of Canada ; and whereas in order to give effect to that Agreement it was declared by the one hundred and forty-fifth section of the Imperial Act, known as "The British North America Act, 1867," that it should be the duty of the Government and Parliament of Canada, to provide for the commencement within six months after the Union, of a Railway connecting the River Saint Lawrence with the City of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed ; And whereas, the Imperial Act known as "The Canada Railway Loan Act 1867," authorizes the guarantee by the Imperial Government of the interest on a loan to be raised by Canada towards the construction of the Intercolonial Railway, connecting the Port of Rivière du Loup in the Province of Quebec, with the line of Railway leading from the City of Halifax in the Province of Nova Scotia, at or near the Town of Truro, on certain conditions therein mentioned : Therefore, in fulfilment of the duty imposed on the Government and Parliament of Canada as aforesaid, and in order to the raising of the said loan, so to be guaranteed as aforesaid, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :

Termini of Railway.

1. There shall be a Railway constructed, connecting the Port of Rivière du Loup before mentioned, with the line of Railway leading from the said City of Halifax, at or near the said Town of Truro, and such Railway shall be styled and known as "The Intercolonial Railway."

Its name.

2.

Digitized by Google

To be a public work.

Guage and grades, &c.

2. The said Railway shall be a public work belonging to the Dominion of Canada; and shall be made with a guage of five feet six inches, and on such grades, in such places, in such manner, with such materials and on such specifications as the Governor in Council shall determine and appoint as best adapted to the general interests of the Dominion.

To be constructed and managed by Commissioners.

3. The construction of the Railway and its management until completed shall be under the charge of four Commissioners, to be appointed by the Governor, who shall hold office during pleasure

Appointment of Chief Engineer.

4. The Governor shall and may appoint a Chief Engineer, to hold office during pleasure, who, under the instructions he may receive from the Commissioners, shall have the general superintendence of the works to be constructed under this Act.

Appointment of other officers, &c.

5. The Commissioners shall and may appoint and employ a Secretary, such Engineers (under the Chief Engineer) and such Surveyors and other officers, and also such agents, servants and workmen as in their discretion they may deem necessary and proper for the execution of the powers and duties vested in the said Commissioners by virtue of this Act.

Powers of Commissioners.

6. The Commissioners shall have full power and authority by themselves, their Engineers, agents, workmen, servants, contractors and the servants and workmen of such contractors—

To explore.

1. To explore and survey the Country lying between Rivière du Loup and Truro;

To enter on lands.

2. And for that purpose to enter into and upon any public lands or the lands of any Corporation or person whatsoever;

To fix the site of road.

3. To make surveys, examinations or other arrangements on such lands necessary for fixing the site of the Railway, and to set out and ascertain such parts of the lands as shall be necessary and proper for the Railway;

To fell timber.

4. And to fell or remove any trees standing in any woods, lands or forests where the Railway shall pass, to the distance of four rods from either side thereof.

To take possession of lands.

7. The Commissioners are further authorized to enter upon and take possession of any lands required for the purposes of the Railway, and they shall lay off the same by metes and bounds, and deposit of record a description and plan thereof in the office for the Registry of Deeds for the County or Registration

Digitized by Google

Registration Division in which the lands are situate, and such deposit shall operate as a dedication to the public of such lands, which shall be thereupon vested in the Crown.

8. The Commissioners or Contractors may enter with workmen, carts, carriages and horses, upon any lands, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the line of Railway or works connected therewith, or for the purpose of digging up, quarrying and carrying away earth, stones, gravel, or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom for the making and preparing of such Railway. To use adjacent lands.

9. It shall be lawful for the Commissioners to make or construct in, upon, across, under or over any land, streets, hills, valleys, roads, railways or tramroads, canals, rivers, brooks, streams, lakes or other waters, such temporary or permanent inclined planes, embankments, cuttings, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches or other works as they may think proper. To perform all necessary works.

10. They may alter the course of any river, canal, brook, stream or water course, and may divert or alter as well temporarily as permanently the course of any such rivers, streams of water, roads, streets or ways, or raise or sink the level of the same, in order to carry them over or under, on the level of, or by the side of, the railway, as they may think proper. May alter the courses of rivers.

11. They shall have power to make conduits or drains into, through or under any lands adjoining the railway, for the purpose of conveying water from or to the Railway. May drain into adjacent lands.

12. The Commissioners shall have all such other powers, (not inconsistent with this Act,) as may be conferred upon Railway Companies by any Act which may be passed for the consolidation and regulation of the general clauses relating to Railways. And enjoy powers conferred by any General Railway Act.

13. The Commissioners may contract and agree with all persons, corporations, guardians, tutors, curators and trustees whatsoever, not only for themselves, their heirs, successors and assigns, but also for and on the behalf of those whom they represent, whether infants, absentees, lunatics, married women, or other persons otherwise incapable of contracting, for the purchase of any land or other property necessary for the construction, maintenance and use of the Railway, at such prices as may be agreed upon; and may also contract and agree with all such persons and corporations, on the amount of compensation to be paid for any damages sustained by them by reason of anything done under and by authority of this Act. Powers of Commissioners with respect to purchase of lands and of parties to convey.

14.

Digitized by Google

Arbitration in case of difference as to value of lands.

14. Whenever the Commissioners and any such party or corporation fail to agree as to such value or compensation as aforesaid, the claim for the same, shall on the request of the claimant, be referred to the award of the official arbitrators to be appointed according to the provisions of any Act that may be passed respecting the public works of Canada, and the same proceedings shall be had before the said Arbitrators, as if the claim were one made under that Act.

Arbitrators to consider increased value given to property.

15. The arbitrators in deciding on such value or compensation are authorized and required to take into consideration the increased value that would be given to any lands or grounds through or over which the Railway will pass, by reason of the passage of the Railway through or over the same, and to set off the increased value that will attach to the said lands or grounds against the inconvenience, loss or damage that might be suffered or sustained by reason of Commissioners taking possession or using the said lands or grounds as aforesaid.

Duties of Commissioners with respect to tenders and contracts.

16. The Commissioners shall build such Railway by tender and contract after the plans and specifications therefor shall have been duly advertized, and they shall accept the tenders of such contractors as shall appear to them to be possessed of sufficient skill, experience and resources, to carry on the work or such portions thereof as they may contract for; provided always that the Commissioners shall not be obliged to accept the lowest tender, in case they should deem it for the public interest not to do so; provided also that no contract under this section involving an expense of ten thousand dollars or upwards shall be concluded by the Commissioners until sanctioned by the Governor in Council.

Proviso: as to contracts of $10,000 or more.

Securities for fulfilment of contract.

17. The contracts to be so entered into, shall be guarded by such securities, and contain such provisions for retaining a proportion of the contract monies, to be held as a reserve fund, for such periods of time, and on such conditions, as may appear to be necessary for the protection of the public, and for securing the due performance of the contract.

Chief Engineer to certify to work done before payment.

18. No money shall be paid to any contractor until the Chief Engineer shall have certified that the work, for or on account of which the same shall be claimed, has been duly executed, nor until such certificate shall have been approved of by the Commissioners.

Disqualification of members of Parliament as officers or contractors.

19. No member of Parliament shall hold, or be appointed to any office of emolument under the Commissioners, or be a contractor or party to any contract with the Commissioners for the construction of the Railway or any part thereof.

Inspection of contracts, &c, by Governor.

20. The Governor, or any person or persons appointed by him, shall have power to inspect all contracts and proceedings of

Digitized by Google

of the Commissioners and to examine their accounts at all times.

21. The Governor in Council shall, in the first instance, fix the rate of salary or compensation for the Commissioners and the Chief Engineer, and shall approve of all other salaries to be awarded by the Commissioners, subject in all cases to the revision and confirmation of Parliament at its first session thereafter.

Salaries and compensation how fixed.

22. The Governor in Council shall have the power, at any time to suspend the progress of the work until the then next session of Parliament.

Power to suspend the works.

23. The Commissioners shall from time to time be paid, on their requisition, by the Receiver General, all monies that may be required for the purposes of this Act, in such manner, at such times and in such sums as may, from time to time, be ordered by the Governor in Council.

Provision for meeting expenditure.

24. The Commissioners shall furnish quarterly accounts (or oftener if required by the Governor in Council) to the Receiver General, of all expenditures and liabilities under this Act.

Quarterly accounts by Commissioners.

25. Whenever the Railway, or any portion thereof, shall be completed, it shall be lawful for the Governor in Council to make suitable arrangements for the working of the same ; but such arrangements shall not be for any longer period than the end of the Session of Parliament next after the making of the same.

Working of completed portions.

26. Her Majesty's Naval or Military Forces, and all Artillery, ammunition, baggage, provisions, or other stores for their use, and all officers and others travelling on Her Majesty's Naval, Military or other service and their baggage and stores, shall at all times, when thereunto required by one of Her Majesty's Principal Secretaries of State, or by the Commander of Her Majesty's Forces in Canada, or by the Chief Naval Officer on the North American Station, be carried on the Railway on such terms and conditions, and under such Regulations as the Governor in Council shall from time to time make, or as shall be agreed upon between the Government of Canada and one of Her Majesty's Principal Secretaries of State.

Carriage of H. M. Naval and Military Forces.

27. For the purpose of constructing the said Railway there shall be raised by loan and appropriated a sum not exceeding three million pounds sterling, bearing interest at a rate not exceeding four per centum per annum, upon the guarantee of the payment of the interest of such loan by the Commissioners of Her Majesty's Treasury, under the provisions of "The Canada Railway Loan Act, 1867."

Loan (with Imperial guarantee) for construction of road.

28.

Digitized by Google

Consolidated Revenue Fund charged.

28. The Consolidated Revenue Fund of Canada shall be and is hereby charged with the principal and interest of the loan, immediately after the charges specifically made thereon by sections one hundred and three, one hundred and four and one hundred and five, of " The British North America Act, 1867.

Sinking Fund provided for.

29. A sinking fund is hereby provided for the payment by the government of Canada of an annual sum at the rate of one *per centum per annum* on the entire amount of principal money whereon interest is guaranteed, which shall be remitted the Commissioners of Her Majesty's Treasury, by equal half-yearly payments in such manner as they may from time to time direct, and shall be invested and accumulated under their direction in the name of four Trustees, nominated from time to time, two by the Commissioners of Her Majesty's Treasury, and two by the Government of Canada; and such Sinking Fund and its accumulations shall be invested in securities of the Provinces of Canada, Nova Scotia and New Brunswick, issued before the Union of Canada, or at the option of the Government of Canada, in such other securities as may be proposed by that Government and approved by the Commissioners of Her Majesty's Treasury, and shall be applied under the direction of the Commissioners of Her Majesty's Treasury in discharge of the principal money whereon interest is guaranteed; and the Consolidated Revenue Fund of Canada shall be and the same is hereby charged with the amount of the said Sinking Fund immediately after the principal and interest of the Loan.

Its investment.

Its application.

Amount charged on Con. Rev. Fund.

Further charge on Consolidated Revenue Fund.

30. The Consolidated Revenue Fund of Canada shall be, and the same is hereby charged with any sum issued out of the Consolidated Fund of the United Kingdom, under the Canada Railway Loan Act, 1867, with interest thereon, at the rate of five per centum per annum, immediately after the Sinking Fund.

Continuance of Sinking Fund.

31. The Sinking Fund shall be continued until all principal and interest of the loan, and all sums issued out of the Consolidated Fund of the United Kingdom, under the Canada Railway Loan Act, 1867, and all interest thereon are fully discharged, or until the Sinking Fund and its accumulations are adequate to discharge so much thereof as remains undischarged.

Loan (without Imperial Guarantee).

32. The Government of Canada is hereby empowered to raise, by loan, for the completion of the Railway, a further sum not exceeding one million pounds sterling (without guarantee by the Commissioners of Her Majesty's Treasury), and the Consolidated Revenue Fund of Canada shall be, and the same is hereby charged with the money so raised and interest, immediately after the charges made thereon in pursuance of the five next preceding sections of this Act.

How charged.

33.

Digitized by Google

33. For the purpose of effecting the loan, the interest of which is to be guaranteed in manner hereinbefore mentioned, it shall be lawful for the Governor to authorize Debentures to the amount of three million pounds sterling, to be issued in such form, and payable at such period, and for such sums, and at such rate of interest as shall be most convenient, and as shall be in accordance with the terms of the Canada Railway Loan Act, 1867.

Issue of debentures for effecting guaranteed loan.

34. For the purpose of effecting the Loan of one million pounds sterling mentioned in the thirty-second section of this Act, or any part thereof, it shall be lawful for the Governor in Council to authorize the issue of Debentures either in currency or sterling money, in such form, bearing such rate of interest, not exceeding six per centum per annum, in such sums and payable at such periods as may be most convenient—or it shall be lawful for the Governor in Council to issue Permanent Canadian Stock or Terminable Annuities, or Exchequer Bills, or securities in any other form that may be most convenient, and as shall be in accordance with The Canada Railway Loan Act, 1867.

How the loan secondly mentioned may be effected.

35. Separate accounts of the monies raised under this Act shall be kept by the Receiver General, and all sums required for the carrying out of this Act, shall be paid out of such monies, and not out of any other fund, except that the Governor in Council may authorize the advance, out of the Consolidated Revenue Fund, of such sums as it may be necessary to expend for the purposes aforesaid, before the said loans can be raised, such sums to be repaid to the Consolidated Revenue Fund out of the Loans.

Separate Accounts of funds raised under this Act

Advances out of other funds and their repayment

CAP. XIV.

An Act to protect the inhabitants of Canada against lawless aggressions from subjects of Foreign Countries at Peace with Her Majesty.

[*Assented to* 21*st December*, 1867.]

Preamble.

WHEREAS in and by the ninety-eighth chapter of the Consolidated Statutes for Upper Canada, and further by an Act made and passed in the Session of Parliament of the late Province of Canada, held in the twenty-ninth and thirtieth years of Her Majesty's Reign, and chaptered four, certain provisions are made for the protection of the inhabitants of that part of the said late Province of Canada called Upper Canada, against lawless aggressions from Subjects of Foreign Countries at Peace with Her Majesty; And whereas in and by two several Acts made and passed in the said Session of Parliament of the late Province of Canada, held in the twenty-ninth and thirtieth years of Her Majesty's Reign, and chaptered

two

Digitized by Google

two and three respectively, certain provisions are made for the protection of the inhabitants of that part of the late Province of Canada called Lower Canada, against similar lawless aggressions ; And whereas it is expedient to continue the operation of the said Acts respectively, and that similar provisions be enacted in respect to the Dominion of Canada—

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Con. Stat., U. C., cap. 98, and Acts of Canada, 29, 30 Vict. cc. 2, 3 & 4, extended.

1. The ninety-eighth chapter of the Consolidated Statutes for Upper Canada, the said Act made and passed in the Session of Parliament of the late Province of Canada, held in the twenty-ninth and thirtieth years of Her Majesty's Reign, and chaptered four,—and the said two several Acts made and passed in the said Session of Parliament of the late Province of Canada, held in the twenty-ninth and thirtieth years of Her Majesty's Reign, and chaptered two and three respectively, are hereby extended and the provisions thereof declared to be in force throughout Canada as follows, that is to say :—

Citizens or subjects of a foreign power taken in arms in Canada may be tried and sentenced by a Militia Court Martial.

2. In case any person, being a citizen or subject of any Foreign State or Country at peace with Her Majesty, be or continues in arms against Her Majesty, within Canada, or commits any act of hostility therein, or enters Canada with design or intent to levy war against Her Majesty, or to commit any felony therein, for which any person would, by the laws in force in any Province of Canada in which such offence is committed, be liable to suffer death, then the Governor may order the assembling of a Militia General Court Martial for the trial of such person, agreeably to the Militia Laws in force in such Province ; and upon being found guilty by such Court Martial of offending against this Act, such person shall be sentenced by such Court Martial to suffer death, or such other punishment as shall be awarded by the Court.

Subjects of Her Majesty in Canada levying war in company with foreigners, or aiding them in so doing, may be tried and sentenced in the same manner.

3. If any subject of Her Majesty, within Canada, levies war against Her Majesty, in company with any of the subjects or citizens of any Foreign State or Country then at peace with Her Majesty, or enters Canada in company with any such subjects or citizens with intent to levy war on Her Majesty, or to commit any such act of felony as aforesaid, or if, with the design or intent to aid and assist, he joins himself to any person or persons whatsoever, whether subjects or aliens, who have entered Canada with design or intent to levy war on Her Majesty, or to commit any such felony within the same, then such subject of Her Majesty may be tried and punished by a Militia Court Martial, in like manner as any citizen or subject of a Foreign State or Country at peace with Her Majesty, is liable under this Act to be tried and punished.

4.

Digitized by Google

4. Every subject of Her Majesty and every citizen or subject of any foreign state or country, who has at any time heretofore offended, or may at any time hereafter offend against the provisions of this Act, is and shall be held to be guilty of felony, and may, notwithstanding the provisions hereinbefore contained, be prosecuted and tried in any county or district of the Province in which such offence was committed before any Court of competent jurisdiction, in the same manner as if the offence had been committed in such county or district, and upon conviction shall suffer death as a felon.

Her Majesty's subjects or foreigners offending against this Act to be guilty of felony and punishable accordingly.

5. In case any person shall be prosecuted and tried in the Province of Ontario under the provisions of the next preceding section and found guilty, it shall and may be lawful for the Court before which such trial shall have taken place, to pass sentence of death upon such person, to take effect at such time as the Court may direct, notwithstanding the provisions of an Act of the Consolidated Statutes for Upper Canada, intituled: *An Act respecting New Trials and Appeals and Writs of Error in Criminal cases in Upper Canada.*

Sentence may be carried out in Ontario notwithstanding Con. Stat. U. C., cap. 113.

CAP. XV.

An Act to prevent the unlawful training of persons to the use of arms, and the practise of Military evolutions; and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace.

[*Assented to 21st December*, 1867.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. All meetings and assemblies of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising Military exercises, movements or evolutions, without lawful authority for so doing, shall be and are hereby prohibited, and declared unlawful, as dangerous to the peace and security of Her Majesty's liege subjects, and of Canada; and every person who shall be present at or shall attend any such meeting or assembling for the purpose of training any other person or persons to the use of arms or to the practice of military exercises, movements or evolutions, or who, without lawful authority for so doing, shall train or drill any other person or persons to the use of arms, or to the practice of military exercises, movements or evolutions, or who shall aid or assist therein, being legally convicted thereof shall be liable to be imprisoned in a Provincial Penitentiary for the term of two years, or to be punished by fine and

Meetings for drill, &c., with out lawful authority prohibited.

Punishment of persons acting as instructors at such meetings.

Digitized by Google

and imprisonment in any of the common jails of any of the Provinces of Canada for a period not less than two years, in the discretion of the Court in which such conviction shall be had; and every person who shall attend or be present at any such meeting or assembly, for the purpose of being or who shall at any such meeting or assembly be trained or drilled to the use of arms, or the practice of military exercises, movements or evolutions, being legally convicted thereof shall be liable to be punished by fine and imprisonment not exceeding two years, in the discretion of the Court before which such conviction shall be had.

And of persons receiving instruction.

Such meetings may be dispersed and persons attending them arrested, and committed for trial if not bailed.

2. It shall be lawful for any Justice of the Peace, or for any Constable or Peace Officer, or for any person acting in their aid or assistance, to disperse any such unlawful meeting or assembly as aforesaid, and to arrest and detain any person present at or aiding, assisting or abetting any such assembly or meeting as aforesaid; and it shall be lawful for the Justice of the Peace who shall arrest any such person or before whom any person so arrested shall be brought, to commit such person for trial for such offence under the provisions of this Act, unless such person can and shall give bail for his appearance at the next Court of Oyer and Terminer and general jail delivery, if in either of the Provinces of Ontario, Nova Scotia or New Brunswick, or at the next term or sitting of the Court of Queen's Bench in the exercise of its criminal jurisdiction, if in the Province of Quebec, to answer to any indictment which may be preferred against him for any such offence against this Act.

Arms or ammunition kept for any unlawful purpose may be seized and detained.

3. It shall be lawful for any Justice of the Peace, upon information on oath of one or more credible witness or witnesses, that any pike, pike head, spear, dirk, dagger, sword, pistol, gun, rifle or other weapon, gunpowder, lead, cartridges, bullets or other ammunition or munitions of war, are for any purpose dangerous to the public peace, in the possession of any person, or in any house or place, to issue his warrant to any Constable or other Peace Officer, to search for and seize any such pike, pike head, spear, dirk, dagger, sword, pistol, gun, rifle or other weapon, gunpowder, lead, cartridges, bullets or other ammunition or munitions of war, being in the possession of any such person, or in any such house or place as aforesaid, and to arrest any person having such possession as aforesaid; and in case admission into such house or place be refused, or not obtained within a reasonable time after it shall have been first demanded, to enter by force, by day or by night, into every such house or place whatsoever, and to detain or cause to be detained such person, and to keep in safe custody, in such place as the said Justice shall appoint and direct, the arms and weapons, ammunition or munitions of war, so found or seized as aforesaid, unless the owner thereof shall prove, to the satisfaction of such Justice, that such arms or weapons, ammunition or munitions of

And the person having them may be arrested.

Digitized by Google

of war, were not kept for any purpose dangerous to the public peace; and any such person having the possession or custody of any such arms, weapons, ammunition or munitions of war, and being so arrested, shall be brought before any Justice of the Peace, and may be dealt with, tried and punished in the same manner as is provided for persons arrested and tried under the fifth section of this Act.

How dealt with.

4. Provided always, that it shall be lawful for any person from whom any such arms or weapons, ammunition or munitions of war, shall be so taken as last aforesaid, in case the justice of the peace upon whose warrant the same shall have been taken, upon application made for that purpose, refuse to restore the same, to apply to the next General or Quarter Sessions of the peace, or in the Province of Quebec, in any district in which no such Court may then be held, to any Judge of the Court of Queen's Bench or of the Superior Court, upon giving ten days previous notice of such application to such justice for the restitution of such arms or weapons, or any part thereof, and the justices assembled at such General Quarter Sessions of the peace, or such Judge of the Court of Queen's Bench or of the Superior Court, shall make such order for the restitution or safe custody of such arms or weapons, or any part thereof, as upon such application shall appear to them or him to be proper.

Claims for restitution of such arms, &c., how to be decided upon.

5. It shall be lawful for any Justice of the Peace, or for any Constable, Peace Officer or other person acting under the Warrant of any Justice of the Peace, or for any person acting with or in aid of any Justice of the Peace, or of any Constable or other Peace Officer, having such warrant as aforesaid, to arrest and detain any person found carrying any such arms, or weapons as aforesaid, in such manner and at such times as, in the judgment of such Justice of the Peace, to afford just grounds of suspicion that the same are for purposes dangerous to the Public Peace; and it shall be lawful for the justice who shall arrest any such person, or before whom any person arrested upon any such warrant shall be brought, to commit such person for trial for a misdemeanor; and such person shall be liable to be tried for a misdemeanor for carrying such arms or weapons aforesaid, and on conviction shall be punished by fine or imprisonment or both in the discretion of the Court trying him for such offence; but any such person may before conviction give good and sufficient bail for his appearance at the next Assizes or General Quarter Sessions of the Peace, or in the Province of Quebec, in any District in which no Court of Quarter Sessions may then be held, at the next term of the Court of Queen's Bench in the exercise of its criminal jurisdiction, to answer to any indictment which may be preferred against him.

Persons carrying arms for unlawful purposes may be arrested and committed and tried for misdeameanor.

May be bailed.

6.

Digitized by Google

All Justices of the Peace to have concurrent jurisdiction under this Act.

6. All Justices of the Peace in and for any District, County, City, Town or place, in Canada, shall have concurrent jurisdiction as Justices of the Peace, with the justices of any other District, County, City, Town or place, in all cases as to the carrying into execution the provisions of this Act, and as to all matters and things relating to the preservation of the public peace under this Act, as fully and effectually as if each of such justices was in the commission of the peace, or was *ex officio* a Justice of the Peace for each of such Districts, Counties, Cities, Towns or places.

Provision for protection of Justices and others acting under this Act.

7. Any action or suit which shall be brought or commenced against any justice or justices of the peace, constable, peace officer or other person or persons for any thing done or acted in pursuance of this Act, shall be commenced within six calendar months next after the fact committed, and not afterwards; and the venue shall be laid in either of the Provinces of Ontario, Nova Scotia or New Brunswick, and the action or suit shall be brought in the Province of Quebec, in the proper county, district or other judicial division, where the fact was committed, and not elsewhere; and the defendant or defendants may plead the general issue and give this Act and the special matter in evidence in any trial to be had thereupon; and if such action or suit be commenced or brought after the time hereby limited for bringing the same, or be brought or the venue laid in any other place than as aforesaid, then a verdict shall be found or judgment shall be given for the defendant or defendants; and in such case if the plaintiff or plaintiffs become non-suit or discontinue his, her or their action after appearance, or if the jury find a verdict or the Court give judgment for the defendant or defendants on the merits, or if upon demurrer, judgment be given against the plaintiff or plaintiffs, the defendant or defendants shall have double costs, and may recover the same in such and the same manner as any defendant can by law in like cases.

Double costs against plaintiff failing in his suit.

This act may be suspended and again brought into force.

8. The Governor in Council may, from time to time, by Proclamation, suspend the operation of this Act in any one of the Provinces of Canada or in any particular districts or district, counties, county or locality therein specified; and from and after the period specified in any such Proclamation the powers given by this Act shall be suspended in such Province or in such districts or district, counties, county or locality; but nothing herein contained shall prevent or be construed to prevent the Governor in Council from again declaring, by proclamation, that any such Province, districts or district, counties, county or locality shall be again subject to this Act and the powers hereby given, and upon such proclamation this Act shall be revived and in force accordingly.

Limitation of prosecutions.

9. No person shall be prosecuted for any offence done or committed against the provisions of this Act, unless such prosecution be commenced within six calendar months after the offence committed.

CAP.

Digitized by Google

CAP. XVI.

An Act to authorize the apprehension and detention of such persons as shall be suspected of committing acts of hostility or conspiring against Her Majesty's Person and Government.

[*Assented to 21st December*, 1867.]

Preamble.

WHEREAS certain evil-disposed persons being subjects or citizens of Foreign Countries at peace with Her Majesty, have lawlessly invaded Canada, with hostile intent, and whereas other lawless invasions of and hostile incursions into Canada are threatened: Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Persons in custody at or after the passing of this Act, charged with certain offences.

1. All and every person and persons who is, are or shall be within Prison in Canada at, upon, or after the day of the passing of this Act, by warrant of commitment signed by any two Justices of the Peace, or under capture or arrest made with or without Warrant, by any of the officers, non-commissioned officers or men of Her Majesty Regular, Militia or Volunteer Militia Forces, or by any of the officers, warrant officers or men of Her Majesty's Navy, and charged,—

With being or continuing in arms against Her Majesty in Canada;

Or with any act of hostility therein;

Or with having entered Canada with design or intent to levy war against Her Majesty, or to commit any felony therein;

Or with levying war against Her Majesty in company with any of the subjects or citizens of any Foreign State or Country then at peace with Her Majesty;

Or with entering Canada in company with any such subjects or citizens with intent to levy war on Her Majesty, or to commit any act of Felony therein;

Or with joining himself or themselves to any person or persons whatsoever, with the design or intent to aid and assist him or them whether subjects or aliens, who have entered or may enter Canada with design or intent to levy war on Her Majesty, or to commit any felony within the same;

Or charged with High Treason or treasonable practices, or suspicions of High Treason, or treasonable practices;

Digitized by Google

May be detained without bail until the end of the Session next after the 1st Dec., 1868.

May be detained in safe custody without Bail or mainprize until the first day of December, one thousand eight hundred and sixty-eight, and until the end of the Session of Parliament then next succeeding; and no Judge or Justice of the Peace shall bail or try any such person or persons so committed, captured or arrested without order from the Queen's Privy Council for Canada, until the day after the termination of the first session held after the first day of December, one thousand eight hundred and sixty-eight, any Law or Statute to the contrary notwithstanding; provided, that if within one month after the date of any warrant of commitment, the same or a copy thereof certified by the party in whose custody any such person or persons is or are detained under it, be not countersigned by a clerk of the Queen's Privy Council for Canada, then any person or persons detained in custody under such warrant of commitment for any of the causes aforesaid by virtue of this Act, may apply to be and may be admitted to Bail.

Proviso: the warrant to be countersigned, by a Clerk of H. M. Privy Council for Canada.

By whom and where such persons may be detained.

2. In cases where any person or persons have been, before the passing of this Act or shall be during the time this Act shall continue in force arrested, committed or detained in custody by force of a warrant of commitment of any two Justices of the Peace for any of the causes in the preceding section mentioned, it shall and may be lawful for any person or persons to whom such warrant or warrants have been or shall be directed to detain such person or persons so arrested or committed, in his or their custody, in any place whatever within Canada, and such person or persons to whom such warrant or warrants have been or shall be directed, shall be deemed and taken to be to all intents and purposes lawfully authorized to detain in safe custody, and to be the lawful Gaolers and Keepers of such persons so arrested, committed or detained, and such place or places, where such person or persons so arrested, committed or detained, are or shall be detained in custody, shall be deemed and taken to all intents and purposes to be lawful prisons and gaols for the detention and safe custody of such person and persons respectively; and it shall and may be lawful to and for the Queen's Privy Council for Canada, by warrant signed by a Clerk of the said Privy Council, to change the person or persons by whom and the place in which any such person or persons so arrested, committed or detained, shall be detained in safe custody.

Place of custody may be changed and how.

Act may be suspended and again brought into force.

3. The Governor General may, by Proclamation, as and so often as he may see fit, suspend the operation of this Act, or within the period aforesaid, again declare the same to be in full force and effect, and, upon any such Proclamation, this Act shall be suspended or of full force and effect as the case may be.

May be amended this session.

4. This Act may be altered, amended or repealed during the present Session of Parliament.

CAP.

Digitized by Google

CAP. XVII.

An Act for the Settlement of the Affairs of the Bank of Upper Canada.

[*Assented to 21st December*, 1867.]

Preamble.

Deed of assignment of 12th Nov. 1866, recited, &c.

WHEREAS the Bank of Upper Canada did, on the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-six, suspend the payment of its notes in specie, and did thereupon and within sixty days thereafter, and while its charter and powers were in full force, under the corporate seal of the said bank, make the deed of assignment of the estate, property and effects of the said bank in the Schedule to this Act set forth, bearing date the Twelfth day of November, in the year of Our Lord one thousand eight hundred and sixty-six, to Thomas C. Street, Robert Cassels, Peter Paterson, Hugh C. Barwick and Peleg Howland, the trustees in the said deed named; and whereas, at a special meeting of the shareholders of the said bank duly convened, according to the charter of the said bank, and while the said charter was in full force, and within sixty days after the said suspension of specie payment, the said shareholders of the said bank did confirm the said deed; And whereas, since the execution of the said deed, the said Robert Cassels, one on the trustees therein named, has resigned his said trust, and the said remaining trustees have, under the powers on them conferred by the said deed, duly nominated and appointed William Alexander, of the city of Toronto, in the Province of Ontario, Esquire, to be a trustee in the place and stead of the said Robert Cassels, and the said William Alexander has accepted the said trust and entered upon the duties thereof; And whereas the said trustees have by their petition requested that the said deed should be confirmed, and the said trustees incorporated under the name of "The Trustees of the Bank of Upper Canada," and it is desirable that the prayer of the said petition should be granted: Therefore, Her Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Deed of assignment confirmed.

1. The said deed of assignment of the Twelfth day of November, in the year of our Lord one thousand eight hundred and sixty-six, in the schedule to this Act set forth, marked A, shall be and the same is hereby confirmed and declared to be valid from the day of the date thereof.

Trustees incorporated: corporate powers.

2. The said trustees and their successors, named and appointed in the manner of the said deed and in this Act mentioned, shall be a body corporate under the name of "The Trustees of the Bank of Upper Canada," and by and under such name shall have, hold, and possess all the properties, estate and effects, real and personal, of the said Bank of Upper

Digitized by Google

Canada, and shall in their corporate capacity, have, hold and exercise all the powers and authorities conferred by the said deed on the trustees therein mentioned, and also all the powers and authorities conferred on them by this Act.

How the assignment may be registered.

3. It is not and shall not be necessary that the said deed shall be registered in full in any county, city or other Registry office, either as to the real or personal estate of the said Bank of Upper Canada, conveyed by the said deed or mentioned in the schedule attached thereto, but the same shall be valid and effectual to all intents and purposes without such registry, and the registry of so much of the said deed as is contained in the form in Schedule B, hereto annexed, shall be a sufficient registry thereof in any county, city or place in which any of the real estate of the said Bank of Upper Canada, vested in the said Trustees by the said Deed, or by this Act, is situate.

Trustees how appointed.

4. The trustees to carry out the said deed of assignment shall be nominated as follows: one thereof by the shareholders of the said bank, at their first meeting under this Act, and the other two of the said trustees shall be appointed to represent the interests of the creditors of the said bank by the Governor in Council; provided always, that until such nominations and appointments, the trustees named in the said deed shall continue to act and shall have all the powers and authorities conferred by the said deed and this Act.

Proviso.

Special provisions added to the deed.

5. The following special provisions shall be added to the provisions in the said deed, and wherever any added provision conflicts with a provision in the original deed, effect shall be given to the added provision:

Continuing business.

1. The trustees shall have power to carry on or continue so much of the operations of the bank as may be necessary for the beneficial winding up of the same;

Executing deeds, &c.

2. To execute on behalf of the bank and in their name as trustees all deeds, receipts and other documents they may think necessary;

General powers.

3. To do or execute in the name of the bank or otherwise all such other things as may be necessary for the winding up the affairs of the bank and distributing its assets;

Balance sheets and statements.

4. The trustees shall make up a balance sheet and statement of the affairs of the trust at least once in every three months until the estate is wound up, and such statement shall be published at least once on the expiration of every three months in one of the daily newspapers published at the cities of Kingston, Montreal and Toronto respectively;

5.

Digitized by Google

5. The trustees shall, from time to time, and at the earliest times possible, declare and pay dividends to the creditors of the said bank rateably and in proportion to their respective claims, and shall, upon demand, in exchange for other vouchers, issue certificates bearing interest at the rate of six per cent per annum, of the amount due to any creditor, but no dividend shall be declared or paid until the same shall be sanctioned by the Governor in Council ; Declaring dividends.

6. The trustees shall, after payment in full of the claims of creditors, pay, divide or apportion (as the case may be) any of the remaining assets of the said bank or residue of the said trust estate, unto and amongst the shareholders of the said bank according to the amount of shares held by them respectively, and any of such assets may be sold or valued and apportioned specifically ; Dividing any remainder.

7. The trustees shall meet at least once in every two weeks, and at any time any two of them, upon six days notice to the other, may convene and hold any special meeting ; Meetings of trustees.

8. The trustees shall semi-annually, on the first Wednesday in the months of May and November in each year, at a general meeting of the creditors and shareholders to be held at noon, at the office of the trustees of the said bank in the city of Toronto, submit a full statement of the affairs and position of the said trust estate ; Half-yearly statement.

9. All deeds, bills, notes, cheques, certificates, vouchers or other documents necessary to be executed or given by the Trustees shall be signed by at least two of the said Trustees ; Signing deeds, notes, &c.

10. The Trustees shall be entitled to receive for their own remuneration the sum of four thousand dollars per annum, which shall be devided among them, as they or a majority of them shall determine ; Remuneration of trustees.

11. Immediately upon the passing of this Act, the Trustees shall call a general meeting of the shareholders, to take place within sixty days thereafter at the City of Toronto, by public notice in the *Canada Gazette*, and in some newspaper published in Quebec, Montreal, Kingston and Toronto, at which meeting the majority of the shareholders of the said Bank present either in person or by proxy, shall elect a Trustee to represent the Shareholders of the said Bank ; General meeting of shareholders.

12. At all meetings of the shareholders of the said Bank, each shareholder shall be entitled to one vote for every share of stock standing in his name on the books of the said Bank ; Voting at meetings.

13. In case of any vacancy in the number of the Trustees at any time arising by death, resignation, or any cause, when such Filling vacancies among trustees.

Digitized by Google

such vacancy shall occur with respect to any Trustee appointed by the shareholders of the said Bank, the remaining or surviving Trustee or Trustees shall thereupon appoint any competent person to fill such vacancy until at the next meeting of the shareholders of the said Bank a majority of the shareholders present in person or by proxy shall appoint the Trustee to fill such vacancy, and when such vacancy shall occur with respect to the Trustees or either of them appointed by the Governor in Council, then the Governor in Council shall fill up such vacancy;

Creditors over $10,000 or shareholders of 200 shares may apply to chancery, &c., respecting matters connected with the management of the estate, &c.

14. Any creditor over the sum of ten thousand dollars or any number of creditors whose claims jointly exceed the sum of ten thousand dollars, or any stockholder holding shares to the number of two hundred at least, or any number of stockholders holding shares to the number of two hundred, may from time to time apply in a summary manner to the Court of Chancery or a Judge thereof in Chambers, upon notice to the trustees, in respect of any matter or thing connected with the management of the said trust, or in the disposition of the proceeds of the said trust estate, or in respect of any matter or thing connected therewith, and obtain the order and direction of the Court or Judge thereupon, and such order may be enforced in the same manner as the decrees or orders of the said Court, and any such order may, amongst other things, require the said trustees to submit statements and accounts of the said trust estate and the management thereof, and may direct the removal of any one or more of the said trustees and the appointment of new trustees, and may generally be to the purport or effect, which in the discretion of the said Court or Judge shall seem meet;

Trustees may apply to chancery for directions.

15. The trustees may, from time to time, apply to the Court of Chancery, or a Judge thereof in Chambers, in a summary way, and obtain its direction on any matter connected with the management of the said trust, or the disposition of the proceeds of the said trust estate, or in respect of any other matter or thing connected therewith, and such order shall be an effectual protection and authority to the said trustees against any personal liability or further responsibility; But, upon such application, the said Court or Judge may require that one or more of the creditors and one or more of the shareholders, or one or more of either class, shall be present on behalf of their respective interests.

Liability of shareholders not affected.

16. Nothing in this Act contained, shall in any wise affect or vary the liability of any shareholder in the said Bank to any creditor thereof, or the rights or remedies of any such creditor against any shareholder, nor shall the rights or remedies of the Crown against the said Bank or the estate vested in the said Trustees, or against any shareholder of the said Bank or the priority of the Crown in any respect whatever be by this Act in any manner affected, impaired, diminished or varied.

SCHEDULE

Digitized by Google

SCHEDULE A.

This Indenture, made the twelfth day of November, in the year of Our Lord, one thousand eight hundred and sixty-six, in pursuance of the Act to facilitate the Conveyance of Real Property, between the Bank of Upper Canada of the first part, and Thomas C. Street, of Niagara Falls, in the County of Welland, Esquire, Robert Cassels, of the City of Toronto, Esquire, Peter Paterson, of the same place, Esquire, Hugh C. Barwick, of the Town of St. Catherines, Esquire, and Peleg Howland, of the said City of Toronto, Esquire, of the second part, and the other persons whose names and seals are hereunto signed and set, being creditors of the said the Bank of Upper Canada, of the third part.

Whereas, the said parties of the first part being unable at present to meet their circulation and deposits as well as their other indebteness, in specie, although possessed of assets more than sufficient to pay all their liabilities, if properly managed and applied, and being desirous of dealing equitably and fairly with all their creditors and having their effects properly appropriated in the liquidation of their debts, have proposed to execute an assignment of all their estate real and personal to the said parties of the second part, in trust for the benefit of their creditors in manner hereinafter expressed.

Now this Indenture witnesseth, that in consideration of the premises and of the sum of five shillings of lawful money of Canada, to them in hand paid by the said parties of the second part, at or before the sealing and delivery hereof (the receipt whereof is hereby by them acknowledged), they, the said parties of the first part, have granted, bargained, sold, assigned, transferred, released, conveyed, and set over, and by these presents do grant, bargain, sell, assign, transfer, release, convey, and set over unto the said parties of the second part, their heirs, executors, administrators and assigns, according to the respective natures thereof, and the estate and interest of the said parties of the first part therein, all and singular, the lands, tenements, hereditaments and premises set forth and comprised and more particularly mentioned in the Schedule hereunto annexed, marked A, which said Schedule is hereby declared to be and is made part and parcel of these presents; and also all and singular, the goods, chattels, office, furniture and other effects mentioned, specified or referred to in the Schedule hereunto annexed marked B; and also all books of account, book debts, bonds, bills, notes, Government debentures, conpons, moneys, mortgages, credits, judgments, policies of insurance—life and fire, and securities for money of what kind or nature soever mentioned or referred to in the schedule hereunto annexed, marked C, which said several Schedules are hereby declared to be and are part and parcel of these presents; and also, all other the real and personal estate, effects, books, books of

Digitized by Google

of account, debts, bonds, mortgages, bills, promissory notes, specialties, securities for money, and personal property of what kind or nature soever now belonging, due, or owing to the said parties of the first part, and all reversions, remainders, yearly and other rents, issues, and profits to such lands and premises belonging or in any manner appertaining thereto; and all the right, title, interest, estate, possession, property, claim and demand whatsoever, at law and in equity, of them the said parties of the first part, of, in, to, out of, or upon the said lands, goods, effects or property respectively hereby assigned or intended so to be, together with all deeds, books, writings, bills, notes, receipts, papers and vouchers touching the same or any part thereof.

To have and to hold, receive, take and enjoy the said lands, goods and chattels, moneys, credits, debentures, bonds, mortgages, bills, specialties and securities for money, and all and singular other the premises hereinbefore assigned, or intended so to be, according to the respective natures thereof, and the estate and interest of the said parties of the first part therein unto the said parties of the second part, their heirs, executors, administrators and assigns absolutely and for ever, as far as the said parties of the first part may or can grant or assign the same.

Subject nevertheless to the charges, incumbrances and equities (if any) now existing thereupon, or upon any part thereof or in any manner affecting the same, and upon the trusts and for the intent and purposes hereinafter expressed and declared of and concerning the same, that is to say:

Upon trust, and it is hereby agreed and declared that the said Trustees, their heirs, executors, or administrators, shall and do forthwith, as soon as conveniently may be, receive, collect and get in all credits and sums of money due and owing to the said parties of the first part, or to become due and owing to them.

And upon the further trust to sell the said goods, chattels, lands, tenements and hereditaments hereby assigned and conveyed, or intended so to be, or any part thereof, as to the said Trustees, their heirs, executors or administrators in their discretion shall seem best, and either together or in parcels, and either by public auction or otherwise, and upon the terms and conditions either for cash or upon credit, and in such manner as they shall think best, and to exchange any of the lands hereby conveyed, or intended so to be, for other lands of equal value which in the judgment of the said parties of the second part are more saleable or more likely to be realized at an early date.

And

Digitized by Google

And it is hereby agreed that it shall and may be lawful for the said Trustees to sell and dispose of any mortgage or other securities which they may receive for or on account of the said Trust hereby created for such prices as to them may seem reasonable, either at public auction or by private contract as they may deem most for the interests of the parties to these presents, and the said Trustees shall not be responsible for any loss which may arise from such sale.

And it is hereby declared and agreed that the said Trustees, their executors and administrators shall and do stand and be possessed of all moneys to arise from the sale of or be produced from all and any property, debts, securities and effects hereby assigned or intended so to be, after paying the expenses incidental thereto, and to the execution of these presents, and of the trusts hereby created, upon and for the trusts, intents and purposes following, that is to say: In trust in the first place to pay all charges and expenses of what kind or nature soever incident thereto or in any manner attendant upon the execution of these presents and in and about the conducting and carrying into effect the trusts thereof; And in the next place to pay all salaries, allowances and wages herein authorized to clerks, agents and other persons employed in winding up the said estate to the best advantage; And in the next place to retain the sum of seven thousand dollars year by year, and every year during the said Trust as and for a remuneration for the loss of time, care, diligence and attendance of the said parties of the second part in and about the execution of these trusts, to be divided among them in such manner and in such proportions as they themselves shall determine; And in the next place to apply such proceeds to pay and satisfy all the creditors of the said parties of the first part, rateably and without priority or preference, as far as the same will or may extend:

And lastly, should any surplus remain, after payment of the creditors as aforesaid, to pay over the same to and among the shareholders of the said the Bank of Upper Canada rateably and in proportion to the amount of stock holden by them respectively and standing to their credit in the Bank of the said parties of the first part.

Provided always, and it is hereby declared and agreed, that it shall and may be lawful for the said Trustees, their executors or administrators to employ such person or persons as they may deem advisable or necessary in winding up the estate of the said parties of the first part, and in the execution of the trusts of these presents, and to pay him or them for his or their services such reasonable salary or wages as the said Trustees, their executors or administrators, may seem fair and right.

Provided always, and it is hereby further declared and agreed, that the said Trustees, their heirs, executors or administrators shall not be answerable or responsible for any loss, damage

Digitized by Google

damage or diminution which shall or may happen to the said Trust Estate by reason of any matter or thing whatsoever, unless the same shall happen by or through the wilful neglect, or misconduct, or default of the said Trustees, their executors or administrators; And further, that each of the said Trustees shall only be held liable for his own acts and not for those of the other of them or his representatives; And for the better enabling the parties of the second part to execute the trusts in them by these presents reposed, the said parties of the first part do hereby nominate, constitute, and appoint, the said parties of the second part, and their executors and administrators, their true and lawful attorneys for them and in their name or otherwise, to do, perform and execute, take and prosecute all such acts, matters and things, suits, actions and proceedings, both at law and equity, as the said attorneys shall think fit or deem expedient for the purposes of the trusts of these presents, and in and about the execution thereof, the said parties of the first part hereby ratifying and confirming, and agreeing to ratify and confirm, all and whatsoever the said parties of the second part shall or may lawfully do or cause to be done in and about the premises by virtue hereof.

And it is hereby further declared and agreed, that it shall and may be lawful for the said parties of the second part to refer or submit any claims or demands, suit, action or dispute about the said estate, to or against the said parties of the first part, to arbitration or umpirage in such manner or upon such terms as to them shall or may seem reasonable or just; Also to compound any claim which the said parties of the second part shall or may have against any person or persons whomsoever, in the execution of the trusts of these presents, or on account of the estate and effects hereby assigned or intended so to be, and to accept a smaller sum in money, property or otherwise, in satisfaction or discharge of the whole, if they in their discretion shall deem it advisable or expedient so to do, and to compromise any claim against the said parties of the first part, or the said parties of the second part, on account of the trusts arising out of these presents or any of them, and to pay, satisfy and discharge any such claim, though the evidence therein or thereof shall or may not be strictly legal or sufficient in a Court of Law or Equity to establish such claim or demand, if the said parties of the second part shall in their discretion think it just or advisable so to do:

And also, to pay out of the said Trust Estate any costs or expenses which shall or may be incurred by them in prosecuting or defending any action or proceeding, in reference to any matter or thing in any manner connected with the trusts of these presents, or in anywise relating thereto, no matter what may be the result of such action or proceeding, any rule of law or equity to the contrary thereof notwithstanding.

Provided

Digitized by Google

Provided always, that if at any time during the continuance of the trusts created by these presents, the parties of the second part, or any of them shall die or remove out of the Province of Canada, or be desirous of being discharged from the same, it shall and may be lawful for the remaining Trustee or Trustees to nominate and appoint one or more person or persons in the place and stead of such Trustee or Trustees so dying, removing from the Province or becoming desirous of being relieved therefrom, and all necessary deeds, assignments, and documents shall be forthwith executed, to vest the remaining Trust Estate in such new Trustee or Trustees, in conjunction with the original or remaining Trustee or Trustees.

And further, that it shall be the duty of the said Trustees to accept and take in payment and liquidation of any debt due to the said estate, the bank notes or bills of the said parties of the first part, and the deposit receipts or cheques of depositors having funds to meet the same with the said parties of the first part at the date of these presents, and they shall and may in their discretion take and receive partial payments on the bills and notes outstanding against any party or parties, and renew the same, from time to time, according to any agreement made with the said parties when the said debt was contracted, or the said bills or notes were given or negotiated, and deal with the same as may in their judgment be best for the interest of the creditors of the said parties of the first part.

And also, on the sale or disposal of any of the lands, tenements and hereditaments hereby assigned or intended so to be, to accept and receive the said bills and notes and deposit receipts in payment for the same.

And further, that all current moneys received by the said Trustees, for and on account of the said Trust Estate, shall be day by day (as far as it is practicable) deposited in one or more of the Chartered Institutions of this Province, and no amount shall be withdrawn therefrom except upon the cheque of at least two of the said Trustees; And also, that at the expiration of six months from the date of these presents, the said parties of the second part shall make up a balance sheet of the affairs of the said Trust, and cause the same to be published for one week in at least two of the daily newspapers of the Province, and continue such balance sheet and publication thereof at the expiration of each successive six months, until the said Trust Estate shall be wound up and settled.

And further, at the earliest possible period, the said parties of the second part shall declare a dividend upon the said estate, and apportion the same among the creditors of the said parties of the first part, rateably and in proportion to their respective claims, and shall from time to time, at as short dates as the interest of the said estate will permit, declare further and other dividends,

Digitized by Google

dividends, as the assets of the said estate may be realized and should warrant the same, and divide the same as aforesaid, until such claims are fully paid or the said assets are fully exhausted.

And upon full payment of such claims, from time to time to declare dividends of the residue of the said estate (if any there be) among the shareholders of the said the Bank of Upper Canada, as the same shall be gotten in, until the said Trust Estate shall have been fully realized, wound up, and settled.

And in order to facilitate the payment of such demands among the holders of the bills of the said parties of the first part, the said parties of the second part shall and may, upon the surrender to them of the said bills, issue to the holders thereof, certificates of their respective claims in the nature of deposit receipts, upon which certificates the claims of the said parties shall be made, and on which all future dividends shall be paid.

And the said parties of the first part covenant with the said parties of the second part, that they have the right to convey the said lands, goods, chattels, and effets, notwithstanding any act of the said parties of the first part; and that they have done no act to encumber the said lands, and that they will execute such further assurances as may be requisite.

In witness whereof, the said parties have hereunto set their hands and seals, the day and year first above written, that is to say, the said parties of the first part their corporate seal by the Honorable George William Allan, the President of the said the Bank of Upper Canada, and the said parties of the second and third parts, their respective hands and seals.

Signed, sealed, and delivered in the presence of }

SCHEDULE B.

This Indenture, made the twelfth day of November, in the year of our Lord one thousand eight hundred and sixty-six, between the Bank of Upper Canada, of the first part, and Thomas C. Street, Robert Cassels, Peter Patterson, Hugh C. Barwick and Peleg Howland, of the second part, whereby the said Bank of Upper Canada did grant and convey unto the said parties of the second part, their heirs and assigns, all the estate and effects, real and personal, of the said Bank of Upper Canada, and the said parties of the second part now have, hold and possess the said estate and effects, as a corporation under the name of the Trustees of the Bank of Upper Canada, under and

Digitized by Google

and by virtue of the Act passed in the year of the reign of Her Majesty, intituled: *An Act for the Settlement of the Affairs of the Bank of Upper Canada*, among which real estate are the following lands (*set out any lands in the county or city only, in which such lands are situate, for registry in such county or city*).

CAP. XVIII.

An Act to amend the Act of Incorporation of the Commercial Bank of Canada, to authorize its amalgamation with any other Bank or Banks, or for its winding up.

[*Assented to* 21*st December*, 1867.]

Preamble.

WHEREAS under and pursuant to the provisions of the Act of the Parliament of the late Province of Canada, passed in the session held in the nineteenth and twentieth years of Her Majesty's reign, chaptered one hundred and twenty, and intituled: *An Act to amend and consolidate the Acts relating to the Commercial Bank of the Midland District, and to change its corporate name to the Commercial Bank of Canada*, the Commercial Bank of Canada has been carrying on its business of bankers; and whereas the said Commercial Bank of Canada has, by its petition, represented, that it is unable at present to meet its bank-notes in circulation, claims of depositors, and other debts, in specie upon demand, although possessed of assets more than sufficient to pay all its liabilities in full if such assets are properly realized and applied, and hath prayed that under the said circumstances an Act of the Parliament of Canada should be passed to contain the provisions hereinafter mentioned; and whereas it is expedient to grant the prayer of the said petition: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Charter not forfeited for 90 days after passing of this Act.

1. Notwithstanding anything contained in the thirty-fifth section of the said recited Act, the suspension by the said Bank of payment on demand in specie of the notes or bills of the said Bank shall not operate as, or be any forfeiture of the charter or corporate privileges of the said Bank, unless such suspension shall continue for the period of ninety days from and after the passing of this Act, although the period of sixty days limited by the said recited Act shall have expired before the passing of this Act.

REDUCTION AND INCREASE OF CAPITAL.

Reduction of capital and how effected.

2. The Directors of the said Bank may by by-law reduce the amount of the capital stock of the said Bank from four millions of dollars, to such sum, not less than one million of dollars, as

Digitized by Google

as shall be fixed in and by the by-law, and such reduction may be in the nominal amount of each share in the capital stock, or otherwise, as may be provided by such by-law; but notwithstanding such reduction the liability of the stockholders of the said Bank to the present creditors of the said Bank, under the thirty-eighth section of the said recited Act, shall remain in full force and effect, and not in the least altered or in anywise diminished or impaired:

Proviso.

Increase of stock.

2. Concurrently with such reduction of the said capital stock, or subsequently thereto, the said Directors may by by-law, or by-laws, from time to time increase the capital stock, (but so that it shall not exceed in all the said original amount of four millions of dollars)—by the issue of new or additional shares, to be each of the same nominal value as the other shares of the said Bank;

Number of additional shares, &c., to be specified in By-law.

3. The said by-law or by-laws shall specify the number of such additional shares, which are then to be added to the capital stock, and the time, place, manner, and other conditions to be observed in the subscription and payment of the same, and such additional shares shall not be issued at less than the par value thereof, and at least fourteen days' public notice of the opening of books of subscription for the said shares shall be given by advertisement, once in each week in the *Official Gazette*, and twice in each week in one or more of the daily newspapers published in the Cities of Kingston, Montreal, and Toronto, respectively;

If more be subscribed for: how allotted.

4. In case more than the whole number of additional shares be subscribed for, than in the allotment thereof, the present shareholders of the said Bank shall be entitled to receive the full amount of the additional shares subscribed for by them respectively, in preference to new subscribers; and in case of any competition between such present shareholders, then their respective proportions shall be determined according to the amounts of their present shares respectively, and should an insufficient number of additional shares be subscribed for, the said directors may, in their discretion, withhold any allotment thereof;

When to be paid up.

5. Every such additional share shall be paid in full within two years from the passing of this Act, and every subscriber or holder thereof shall be entitled to a share of the profits of the said Bank in proportion to the sum actually paid in upon each share, from the period at which such sum was so paid, and any holder shall be entitled to vote in respect of the shares held by him unless he shall be in default in respect of any calls upon such shares;

Right of new shareholders.

6. Every person subscribing for or holding any share or shares in the said additional capital stock, shall have the same rights

Digitized by Google

rights and be subject to the same liabilities as the other shareholders in the said Bank ;

7. Each share in the said Bank shall entitle the holder thereof to one vote in respect thereof, notwithstanding anything in the said heretofore recited Act contained ; Votes.

8. The Directors of the Commercial Bank of Canada may, by by-law, from time to time remove the principal office of the said Bank to such place or places in Canada as they shall deem meet, but any such by-law, to be valid, shall be confirmed at the special general meeting of the seventeenth day of December next, or at any adjournment thereof, or at any future special general meeting of the shareholders of the said Bank, as the case may be, and in the event of such removal the annual and other general meetings of the said bank shall take place and be held at the place to which the chief office shall be so removed. Principal office may be removed. General meetings in such case.

CLAUSES AS TO AMALGAMATION.

3. The Directors of the said Bank may enter into an agreement with any other banking institution or institutions for an amalgamation, and may determine upon the terms of such amalgamation and the relative values of the stock of the said Bank and of such amalgamating bank or banks, and may agree upon such other terms for the conduct, management and general relations of the amalgamated institutions, as the Directors of the said Banks may think best, not, however, being inconsistent with or in excess of the powers conferred by their respective Acts of Incorporation ; such agreement shall not, however, be valid until confirmed by a majority of such of the shareholders of the Commercial Bank of Canada, as shall be present either in person or by proxy, at the special general meeting of the shareholders, convened for the seventeenth day of December, one thousand eight hundred and sixty-seven, or at any adjournment thereof, or at any future special general meeting called for that purpose. Agreement for amalgamation with another Bank : how to be under and confirmed.

4. The Directors of any other banking institution or institutions are hereby authorized to enter into an agreement of amalgamation with the Commercial Bank of Canada, to the purport and effect set forth in the last preceding section, but such agreement shall not be valid until confirmed at a Special General Meeting called for the purpose of the shareholders of the bank or banks so entering into the said agreement. Directors of the other Bank empowered to agree. Confirmation by shareholders.

5. The terms of the agreement of amalgamation shall be set forth in a formal indenture of Union, executed by the said respective banks parties thereto, and upon the filing of a duplicate thereof in the office of the Secretary of State for Canada, such amalgamation shall be taken to be fully complete, and the said amalgamated banks shall thereafter be deemed to be one corporation Mode of carrying out the Union and its effect.

Digitized by Google

corporation, under such name, not being the name of any other Bank not entering into such amalgamation, as may be declared in such indenture, and shall possess all the corporate powers, rights and privileges theretofore held, enjoyed or possessed by any or either of the said respective banks, and the provisions contained in their respective Acts of Incorporation shall apply to the said amalgamated bank, which shall in all respects be subject to and be regulated by the said provisions, except in so far as the same may be varied by the terms of the said indenture of union or this Act; and in case of any conflict between the terms of the provisions contained in the said respective Acts of Incorporation, those contained in the said recited Act of Incorporation of the Commercial Bank of Canada shall be construed, taken and held to govern the said amalgamated bank; and immediately after the filing of the said indenture in the office of the said Secretary of State, a copy of the same certified by the said Secretary, shall be published at length in the *Official Gazette* at the expense of the said Bank.

Corporate powers after union.

In case of conflict of provisions of the charters of the two Banks.

Indenture of Union how proved.

6. The production of the said indenture of union, with the certificate thereon endorsed of the Secretary of State for Canada of the filing of the duplicate thereof, in his office, or the production of a copy of such duplicate indenture certified by the said Secretary of State, or of a copy of the *Official Gazette* in which the said indenture has been published, under the last preceding section, shall be conclusive evidence, in all Courts and proceedings, of the execution and filing of the said indenture, without further or other proof, and shall also be *prima facie* evidence, without further proof, in all Courts and proceedings, of the complete union and incorporation into one corporation of the said amalgamated institutions.

United Bank may increase its capital: Limitation.

7. The said amalgamated bank may, by by-law or by-laws, and upon the terms set forth in such by-laws, from time to time increase their capital stock, but the additions thereto shall not exceed the amount of the original capital stock of the Commercial Bank of Canada and of such amalgamating bank or banks, as authorized by their respective Acts of Incorporation:

Requisites of By-laws for increasing capital.

2. Any such by-law or by-laws shall contain the same requisites, as are hereinbefore set forth, with respect to by-laws to increase the capital stock of the Commercial Bank of Canada, and the provisions hereinbefore set forth in sub-sections three, four, five and six of section two of this Act shall apply to the increase of capital stock authorized by this section, as if re-enacted with respect to the same; no such by-law shall be valid until confirmed by a majority of such of the Shareholders as shall be present in person or by proxy at a Special General Meeting of the shareholders of the amalgamated bank called for that purpose.

Confirmation by shareholders.

8.

Digitized by Google

8. The indenture of union, hereinbefore mentioned, may provide for the place where the head or principal office of the amalgamated bank shall be situate, and may also contain provisions for the removal of such principal office from time to time.

Principal office.

9. Immediately upon the union or amalgamation of the said bank taking place, the shareholders of the respective banks so amalgamating shall (*ipso facto*) become the shareholders of the said amalgamated bank in the amounts and according to the relative values of the stocks of the amagalmated banks, as provided for and set forth in the said indenture of union:

Effect of Union as to shareholders.

2. And notwithstanding anything to the contrary contained in the several Acts of Incorporation relating to the said banks, each share in the capital stock of the said united corporation shall entitle the holder thereof to one vote at all general meetings of the shareholders of the said bank, unless he shall be in default in respect of any calls upon such share;

Each share to give one vote.

3. And thereupon also all the estate and effects, real and personal, rights, property, credits, choses in action, claims and demands of whatsoever nature or quality, or wherever situate, of each of the amalgamating Banks, shall forthwith become vested in the said amalgamated corporation, its successors and assigns, as for its own use and benefit absolutely, and it may, in its own name, sue for, collect and get in, any or any part of the said estate, rights or effects;

Estates and assets to be voted in new Corporation.

4. And the said amalgamated corporation shall forthwith also become subject and liable to pay and discharge all of the debts, obligations, bills, promissory notes or other liabilities of each of the said amalgamated banks, and may be directly sued and proceeded against in respect thereof, as fully and effectually as if the same were originally, and they shall be taken and construed so to be, the debts, obligations, promissory notes and liabilities of the said amalgamated corporation.

Liabilities of new Corporation.

10. The amalgamation taking effect as hereinbefore provided, shall in no way release, affect or discharge the liability or obligation of any surety to any or either of the amalgamating banks, for or in respect of any bill, debt, claim, service, employment, or matter, or thing whatsoever, but the said liability and obligation shall continue in full force and effect, and shall be taken and construed to be a liability or obligation in favor of the said amalgamated corporation, as if the same had been originally and directly given to or entered into with the said last mentioned corporation.

Obligations of sureties for debts, &c., not affected.

CLAUSES AS TO WINDING UP.

11. In the event of the Commercial Bank of Canada not being able to resume its business, or in case no such amalgamation takes place as hereinbefore provided, then it shall and may

Provision if the Bank can neither resume

Digitized by Google

nor amalgamate with another.

may be lawful, at the meeting of the shareholders thereof, convened for the seventeenth day of December aforesaid, or at any adjournment thereof, or at any future special general meeting, held within ninety days from the passing of this Act, to provide for its winding up and the liquidation of its liabilities, by the execution, within the said period of ninety days, of a deed of assignment of all its estate and effects to three trustees, to be named therein—such deed and assignment to be in the form of schedule A, to this Act; and the said trustees and their successors shall be deemed and taken to be a body corporate, and by the name of the "Trustees of the Commercial Bank of Canada," may have, hold, take, receive, grant, alien, assign, transfer, release, and convey all or any part of the said trust estate and effects, and by the same name may bring or defend any action, suit, or proceeding, and do, execute or perform any act, deed, matter, or thing, which they may think necessary in the performance or execution of the trusts of the said assignment; but notwithstanding any such incorporation, in any action, suit or proceeding, brought or prosecuted by the said Trustees, they shall not possess any other or different or higher rights or remedies than the Bank would have had, if suing in its own name.

Assignment to be made to Trustees, who shall be a Corporation: their general powers.

How the Trustees shall be chosen.

12. The Trustees to be named in the said deed of assignment shall be nominated as follows: two thereof by the shareholders of the said Bank, at the meeting provided for in the last preceding section, at which the winding up of the said Bank is determined upon, and the third of the said Trustees shall be appointed to represent the interests of the creditors of the said Bank by the Court of Chancery, or a Judge thereof, and such appointment shall be made upon the summary application of the said Bank to such Court or Judge; but notice of such application shall be given to the creditors of the said Bank, in such manner as the Court or Judge may direct; and the Court or Judge may direct in what manner the creditors, by classes or otherwise, may be represented upon such application; If, however, at the time of the meeting of the said shareholders at which such winding up is determined upon, the liabilities of the said Bank shall have been reduced to within the sum of five hundred thousand dollars, then the said third trustee shall also be appointed at the aforesaid meeting of the said shareholders, and the provision hereinbefore contained with respect to the appointment of such third trustee by the Court of Chancery or a Judge thereof, shall be and become inoperative.

Notice of application by creditors.

If the liabilities are then less than $500,000.

Provisions to be contained in the assignment: powers of Trustees.

13. Such deed of assignment shall be construed to contain the following special provisions:—

Continuing business.

1. The said trustees shall have power to carry on or continue so much of the operations of the Bank as may be necessary for the beneficial winding up of the same;

2.

Digitized by Google

2. To sell the real and personal, mixed and moveable property, effects and things in action of the Bank, by public or private contract, with power, if they think fit, and upon the concurrence of a majority of the shareholders, present in person or by proxy, at any special general meeting to be called for such purpose, (and provided that by the terms of such sale the payment in full of the claims of all of the creditors shall not be deferred beyond the period of six months thereafter,) to sell and transfer all of the said estate and effects to any bank or banks, upon such terms and conditions as may be agreed upon, and in such case the execution by the said trustees of a deed to the form and effect set forth in schedule B. to this Act shall be deemed and taken to vest in such purchasing bank, all such estate and effects, and such deed shall and may be validly registered in any registry office with respect to lands by the production and filing of a duplicate thereof with a memorandum or schedule thereunder or annexed thereto of the particular lands or real estate lying within the limits for which such office is the proper office for registry; Disposing of property and assets. Sale of the whole to a Bank.

3. To execute on behalf of the Bank and in their name as trustees all deeds, receipts and other documents they may think necessary; Executing deeds, &c.

4. To refer disputes to arbitration, and to compound claims; also to renew or extend time of payment of bills or debts payable to the Bank; Arbitrations.

5. To do or execute in the name of the Bank or otherwise all such other things as may be necessary for the winding up the affairs of the bank and distributing its assets; General powers.

6. It shall be the duty of the trustees to deposit day by day all current moneys received by them in one or more of the Incorporated or Chartered Banks, and no amount shall be withdrawn therefrom except upon the check of at least two of the trustees; Depositing money collected.

7. The trustees may appoint such accountants, book-keepers and others as may be necessary to assist in the winding up of the trust estate and may pay them reasonable salaries and remuneration therefor; Appointing accountants, &c.

8. The trustees shall make up a balance sheet and statement of the affairs of the trust at least once in every month until the estate is wound up, and such statement shall be published at least once on the expiration of each month in one of the daily newspapers published at the cities of Kingston, Montreal, and Toronto, respectively; Making balance sheets, statements, &c.

9. The trustees shall from time to time and at the earliest times possible, declare and pay dividends to the creditors of Declaring dividends.

Digitized by Google

the said Bank rateably and in proportion to their respective claims, and shall, upon demand, in exchange for other vouchers, issue certificates bearing interest at the rate of six per cent per annum of the amount due to any creditor;

Dividing any remainder.

10. The trustees shall, after payment in full of the claims of creditors, pay, divide or apportion (as the case may be) any of the remaining assets of the said Bank or residue of the trust estate, unto and amongst the shareholders of the said Bank according to the amount of shares held by them respectively, and any of such assets may be sold or valued and apportioned specifically;

Meetings of Trustees.

11. The trustees shall meet at least once in every two weeks, and at any time any two of them upon six days' notice to the other may convene and hold any special meeting;

Half-yearly statements.

12. The trustees shall semi-annually on the first Wednesday in the months of May and November in each year at a general meeting of the creditors and shareholders to be held at noon at the principal office of the said Bank in the city of Kingston, submit a full statement of the affairs and position of the said trust estate.

Estate and effects of the Bank vested in the Trustees.

Registration how effected.

14. Immediately upon the execution of the said deed of assignment, all of the estate and effects of the said Bank shall become vested in the said trustees and for the purposes mentioned in the said assignment and according to the provisions thereof, and it shall be unnecessary to file or register any copy of the said deed in any office for filing or registry, with respect to real or personal property in Canada, but the said deed may at any time be validly registered in any registry office with respect to lands, by the production and filing of a duplicate thereof, with a schedule or memorandum thereunder or annexed thereto of the particular lands within the limits of such registry office.

Signing deeds, &c.

15. All deeds, bills, notes, cheques, certificates, vouchers or other documents necessary to be executed or given by the trustees shall be signed by at least two of the said trustees.

Remuneration of Trustees.

16. The trustees shall be entitled to receive such remuneration, in equal proportions, and in such manner as the shareholders may from time to time determine upon.

Trustees representing creditors to vacate when the claims have been paid in full or reduced to less than $100,000

17. Whenever the claims of all of the creditors of the said Bank shall have been paid in full, or reduced to less than the sum of one hundred thousand dollars, the trustee appointed as the representative of the creditors by the Court of Chancery, or a Judge thereof, shall thereupon vacate his said office, and the remaining trustees shall thereupon appoint a third trustee in his place, who shall remain and continue such trustee until the

Digitized by Google

the Special General Meeting of the shareholders of the said Bank, which shall be convened by the said trustees immediately after such appointment, and at which a majority of the stockholders present, in person or by proxy, may nominate and appoint such third trustee; And in case of any vacancy in the number of the trustees at any time arising by death, resignation, or any cause, when such vacancy shall occur with respect to any trustee appointed by the shareholders of the said Bank, the remaining or surviving trustee or trustees appointed by the said shareholders shall thereupon appoint any competent person to fill such vacancy until, at a special or other general meeting of the shareholders of the said Bank, a majority of the shareholders present in person or by proxy shall appoint the trustee to fill such vacancy; and when such vacancy shall occur with respect to the trustee appointed by the Court of Chancery or a Judge thereof as aforesaid, then it shall be the duty of the remaining or surviving trustees to apply to the said Court or a Judge thereof for the appointment of a competent person to fill such vacancy, and the procedure upon such application shall be similar to that hereinbefore prescribed with respect to the original appointment of the third trustee.

Filling vacancies among the Trustees.

18. Any creditors over the sum of ten thousand dollars, or any number of creditors whose claims jointly exceed the sum of ten thousand dollars, or any stockholder holding shares to the number of two hundred at least, or any number of stockholders holding shares to the number of two hundred, may from time to time apply in a summary manner to the Court of Chancery or a Judge thereof in Chambers, upon notice to the trustees, in respect of any matter or thing connected with the management of the said trust, or with the disposition of the proceeds of the said trust estate, or in respect of any matter or thing connected therewith, and obtain the order and direction of the Court or Judge thereupon, and such order may be enforced in the same manner as the decrees or orders of the said Court, and any such order may, amongst other things, require the said trnstee to submit statements and accounts of the said trust estate and the management thereof, and may direct the removal of any one or more of the said trustees and the appointment of new trustees, and may generally be to the purport or effect, which in the discretion of the said Court or Judge shall seem meet.

Creditors or shareholders to a certain amount may apply to Chancery on matters connected with the Trust.

19. The trustees may, from time to time, apply to the Court of Chancery, or a Judge thereof in Chambers, in a summary way, and obtain its direction on any matter connected with the management of the said trust, or the disposition of the proceeds of the said trust estate, or in respect of any other matter or thing connected therewith, and such order shall be an effectual protection and authority to the said trustees against any personal liability or further responsibility; But, upon such application, the said Court or Judge may require that one or

Trustees may apply to chancery for directions.

Digitized by Google

or more of the creditors and one or more of the shareholders, or one or more of either class, shall be present on behalf of their respective interests.

Liability of shareholders not affected.

20. Nothing in this Act contained, respecting the winding up of the said Bank, shall in anywise affect or vary the liability of any shareholder in the said Bank to any present creditor thereof, or the rights or remedies of any such creditor.

Short Title.

21. This Act may be cited and known as "The Commercial Bank Act, 1867."

Public Act.

22. This Act shall be a Public Act.

SCHEDULE A.

This Indenture made between the Commercial Bank of Canada, a Corporation, of the first part, and "The Trustees of the Commercial Bank of Canada" of the second part, witnesseth, that under the provisions of the Act of the Parliament of Canada passed, &c., intituled, &c., the Commercial Bank of Canada, doth grant, transfer and assign to the said Trustees, their successors and assigns, all the Bank's estate and effects, real and personal of every nature and kind whatsoever, and wherever situate; To have and to hold the same according to the respective estates, natures and qualities thereof, unto the use of the said Trustees, their successors and assigns, upon the trusts, and for the purposes, and with the powers and authorities mentioned in the said recited Act.

SCHEDULE B.

This Indenture made this day of between "the Trustees of the Commercial Bank of Canada" of the first part, and The Bank of the second part, witnesseth, that under the provisions of the Act of the Parliament of Canada, passed, &c., intituled, &c., the parties of the first part do grant, transfer and assign unto the party of the second part, its successors and assigns, all the estate and effects, real and personal, of every nature and kind whatsoever, and wherever situate, belonging to the trust estate of the Commercial Bank of Canada; To have and to hold the same unto and to the use of the party of the second part, its successors and assigns forever.

The parties of the first part covenant with the parties of the second part for further assurance.

CAP.

Digitized by Google

CAP. XIX.

An Act to amend "The Grand Trunk Arrangements Act, 1862," and for other purposes.

[*Assented to 21st December*, 1867.]

Preamble.

WHEREAS the Grand Trunk Railway Company of Canada have, by their petition, prayed that power should be granted to them to raise further money; to authorize further arrangements with other companies, and for the other purposes hereinafter mentioned; and whereas the bondholders and shareholders have given their assent that the power to raise further money be given to the Company: and whereas the purposes aforesaid cannot be effected without the authority of Parliament: Therefore, Her Majesty, by and with the advice and consent of the Senate and the House of Commons of Canada, enacts as follows:

Short Title.

1. This Act may be cited as "The Grand Trunk Railway Act, 1867."

Interpretation clause.

2. In this Act, except where repugnant to or inconsistent with the context, the following words have the following meanings:

The word "Company" means the Grand Trunk Railway Company of Canada.

The words "Arrangements Act" mean "The Grand Trunk Arrangements Act, 1862."

The words "Postal Bonds" mean the Postal and Military Service Bonds issued by the Company under the authority of the Arrangements Act;"

The words "working expenses" mean working expenses as defined by the Arrangements Act.

Company may issue equipment mortgage bonds, No. 2, to the amount of £500,000 Sterling.

Interest and rank of such bonds.

3. The Company may, from time to time, raise by the creation and issue of bonds having not less than fifty years to run, to be called Equipment Mortgage Bonds No. 2, any sum or sums of money not exceeding in the whole five hundred thousand pounds sterling, bearing interest not exceeding six per centum per annum, such bonds to be and become a first charge upon and over all the Company's railways, works, rolling stock, and other plant, and the net receipts arising therefrom, after paying the working expenses as hereinbefore defined, prior to all other charges, except only the Equipment Mortgage Bonds issued under the authority of the Arrangements Act, and except that the Postal Bonds shall retain their special security upon the moneys to be received by the Company for the special services defined in the first section of such last mentioned Act.

4.

Digitized by Google

Power to re-borrow money paid to redeem such bonds.

4. The Company may, from time to time, re-borrow all such moneys as may be required for paying or redeeming such Equipment Mortgage Bonds No. 2 by issuing other like bonds having the same privileges, but so that the aggregate amount of the principal money secured by Equipment Mortgage Bonds No. 2 shall not at any time exceed the sum of five hundred thousand pounds sterling.

Power to convert equipment mortgage bonds No. 2, into equipment mortgage stock, No. 2.

5. If the Company, instead of raising the money hereby authorized to be raised by the creation and issue of Equipment Mortgage Bonds No. 2, or afterwards for the conversion of such bonds, so desire, they may, with the sanction of three-fourths of the votes of persons entitled to vote in that behalf at meetings of the Company, present in person, or by proxy, at a meeting of the Company specially convened for the purpose, from time to time, raise all or any part of the money which they are hereby authorized to raise by Equipment Mortgage Bonds No. 2, by the creation and issue at such times and in such amounts and manner, and on such terms, and subject to such conditions, and with such rights and privileges as the company think fit, (subject nevertheless to the priorities hereinbefore specially reserved) of mortgage stock to be called Equipment Mortgage Stock No. 2 instead of and to the same amount as the whole or any part of the money which may for the time being be owing by the Company in respect of any Equipment Mortgage Bonds No. 2 which they may have issued under the powers of this Act, or which they may have power to issue, and may attach to the mortgage stock so created such fixed and perpetual interest, not exceeding six per centum per annum, payable half-yearly or otherwise, and commencing at once or at any future time or times when and as the Equipment Mortgage Stock is issued, or otherwise as the Company think fit.

Privileges of such stock.

Recital.

6. And, whereas, by an Act of the Legislature of the late Province of Canada, passed in the twenty-ninth and thirtieth years of the reign of Her present Majesty, intituled: "An Act to legalize and confirm an agreement made between the Grand Trunk Railway Company of Canada and the Buffalo and Lake Huron Railway Company," an agreement, dated the seventh day of July, one thousand eight hundred and sixty-four, made between the said Companies, and scheduled to the said Act, was confirmed, subject to the acceptance thereof by meetings of the shareholders of the respective Companies, which have been since held, and which have duly accepted the same; and it is expedient that such companies should be enabled to vary the terms of such arrangements by mutual consent: Be it therefore enacted, that it shall be lawful for such Companies, from time to time, during the continuance of the agreement now subsisting between them, dated the seventh day of July, one thousand eight hundred and sixty-four, by agreement under their respective common seals, to alter and vary the terms and conditions of such agreement in so far as relates to all or any of the several matters

The G. T. R. Company and the Buffalo and Lake Huron Railway Co. may vary the agreement of July, 1864.

Digitized by Google

matters in the first, second, fourth, fifth, sixth and seventh clauses of such agreement contained; Provided that no such new agreement shall have any effect for any period in excess of the twenty-one years declared in the said seventh clause, nor unless and until confirmed at general meetings of the respective Companies specially convened for the purpose, at which meetings bondholders as well as stockholders and shareholders shall be entitled to vote; And provided also, that nothing in this Act contained shall in any manner prejudicially affect any agreements, rights or remedies, if any such exist, of any person or persons who is or are judgment or other creditors of the Buffalo, Brantford and Goderich Railway Company, or of the Buffalo and Lake Huron Company.

Proviso.

Proviso.

7. And, whereas, by an Act of the Legislature of the late Province of Canada, passed in the twenty-seventh and twenty-eighth years of the reign of Her present Majesty, intituled: "An Act to enlarge the powers of the Montreal and Champlain Railroad Company, to confirm a certain agreement entered into by the said Company, and to secure a permanent Railway City Station in Montreal," an agreement dated the first day of January, one thousand eight hundred and sixty-four, made between the Montreal and Champlain Railroad Company (therein and herein called the "Montreal Company,") and the Company was confirmed; and by the fifth section of such Act power was given to the Montreal Company to sell, and to the Company to purchase, within five years from the passing of the Act, the entire lines and other property of the Montreal Company upon the terms therein mentioned; and, whereas, it is expedient that such period of five years should be enlarged: Be it therefore enacted, That the said period of five years by the said recited Act limited, shall be and is hereby enlarged to ten years from the passing of the said recited Act: Provided that such extension of time shall be subject to the approval of the shareholders of the Montreal and Champlain Railroad Company, to be given at a general meeting specially convened for that purpose.

Recital.

Agreement of January, 1864, with Montreal and Champlain Railway Co.

Power to vary agreement.

Proviso.

8. For the purpose of this Act, the meetings hereby directed to be held shall be convened in manner as similar as circumstances will permit to that prescribed in respect to the ordinary meetings of the Company convening the same.

Meetings under this Act.

9. And whereas the moneys payable by the Company in respect of interest due upon their bonds as well as upon their leases and obligations of and to the lines amalgamated with or leased to or worked by them fall due at varying periods, and it is expedient that the books and accounts of the Company should be closed at regular intervals: Be it enacted, that it shall be lawful for the Company, from time to time hereafter, to appoint a period for the closing of their books, up to which time all accounts shall be taken in respect of moneys payable by the Company and closed, and from which period all future periodical payments

Recital.

Power to close books at regular intervals.

Digitized by Google

payments shall be computed, a rateable proportion of any payment for any broken period being added or deducted as the case may require.

CAP. XX.

An Act to incorporate the St. Lawrence and Ottawa Railway Company.

[*Assented to 21st December*, 1867.]

Preamble.

WHEREAS, by an Act of the Parliament of the late Province of Canada, made and passed in the thirteenth and fourteenth years of Her Majesty's reign, intituled: *An Act for the Incorporation of a Company to construct a Railroad between Bytown and Prescott*, certain persons therein named, together with such other persons as should under the provisions of that Act become subscribers to and proprietors of any share or shares in the Railway thereby authorized to be made, were united into a Company for carrying on, making, completing and maintaining the said intended Railway and other works, and it was thereby enacted that they should for that purpose be one body politic and corporate by the name of "The Bytown and Prescott Railway Company," and by that name should have perpetual succession and should have a common seal and other the usual powers and rights of bodies corporate, not inconsistent with the said Act now in recital; and whereas, by a certain other Act of the Parliament of the said Province made and passed in the fourteenth and fifteenth years of Her Majesty's reign, intituled: *An Act to amend the Act incorporating the Bytown and Prescott Railway Company;* and also by two certain other Acts of the Parliament of the said Province, made and passed in the sixteenth year of Her Majesty's reign, intituled respectively: *An Act to amend the Act incorporating the Bytown and Prescott Railway Company;* and *An Act for the granting of certain lots in the town of Bytown to the Bytown and Prescott Railway Company*, certain other powers and provisions were conferred on or made, enacted, and declared with respect to the said Railway Company; and whereas, by a certain other Act of the Parliament of the said Province, made and passed in the eighteenth year of Her Majesty's reign, intituled: *An Act to change the name of the Bytown and Prescott Railway Company, and to amend the Act incorporating the same*, it was enacted that the Company incorporated under the first hereinbefore in part recited Act should be called and known under the name and style of "The Ottawa and Prescott Railway Company," instead of being called and known by the name and style of "The Bytown and Prescott Railway Company;" and whereas, in pursuance and under the authority of the said several hereinbefore in part recited Acts, or of some or one of them, the said Railway Company carried on, made, completed and

13, 14, V. c. 132.

14, 15 V. c. 147.

16 V. cc. 52, 53.

18 V. c. 188.

Digitized by Google

and maintained the said railway and other works, and purchased or acquired and held certain lands, and laid the track of the said railway and sidings, and erected messuages, houses, buildings and machinery thereon respectively, or on some part thereof, and exercised and maintained the powers, rights, and privileges incident to the carrying on, making, maintaining and completion of the said railway, granted and conferred in and by the said Acts of Parliament, or some or one of them; and whereas, by a certain other Act of the Parliament of the said Province, made and passed in the twenty-eighth year of Her Majesty's reign, intituled: *An Act for the relief of the Ottawa and Prescott Railway Company, and for ensuring the efficient working of its railway and for other purposes*, after reciting that the interest on the bonds issued under the first mortgage, and the interest on the second and third mortgages made by the Ottawa and Prescott Railway Company was in arrear, and that the Company had also become otherwise deeply indebted, and several of the creditors had obtained judgments against it, and that the railway was in the hands of a receiver appointed by the Court of Chancery for Upper Canada, at the instance and for the protection of certain of its bondholders; and further reciting that the said railway was out of repair; and further reciting that the keeping open of the railway for traffic, which was of the utmost importance to the interests of the said Province, was by reason of the premises imperilled, and that it was necessary that the said railway and its franchises should be absolutely sold to secure thereafter the uninterrupted working of the said railway,—it was enacted, that, notwithstanding anything in any law or statute to the contrary, it should be lawful for any mortgagee or judgment creditor of the said Company to proceed upon his mortgage or execution against lands, and sell thereunder the said railway with all its lands, rights, privileges, franchises, and appurtenances, and that any mortgagee or creditor of the said Railway Company might become the purchaser of the said railway at such sale, and that such sale should extinguish all mortgages, bonds, judgments, and claims whatsoever existing at the time of the sale of such railway, and by and that under such sale, whether made under power of sale in any mortgage decree of the Court of Chancery in Upper Canada, or Sheriff's sale on such execution against lands as aforesaid, the purchaser, his heirs or assigns, should acquire a good title to the said railway and all the lands, rights, privileges, franchises and appurtenances thereto belonging or in any way appertaining, freed and discharged from any claim and incumbrance whatever, and should have full power and authority to sell and dispose of the same, to use and work the said railway under the Act of incorporation of the said Railway Company, or any amendment thereof, as fully and effectually as if such charter had been granted to such purchaser; and whereas a certain suit was instituted in the Court of Chancery for Upper Canada in which Alexander Simpson, Abraham Darby, Henry Dickinson, William

28 V. c. 35.

Suit in Chancery.

William Tothill, Thomas Brown and Joseph Robinson, on behalf of themselves and all others, the holders of the bonds of the Ottawa and Prescott Railway Company, bearing date the first day of November, one thousand eight hundred and fifty-three, and secured as the first charge on the said railway by mortgage executed by the said Company to the said Alexander Simpson, bearing date the sixteenth day of March, one thousand eight hundred and fifty-three, were plaintiffs, and the Ottawa and Prescott Railway Company, the City of Ottawa and the Town Council of the Town of Prescott by Bill, and certain other parties made parties in the Master's Office, were defendants; and a sale of the said railway was thereunder held, at which the said Joseph Robinson was adjudged the purchaser of the same; and whereas, by an order of the said Court of Chancery made in the hereinbefore recited suit, on Saturday, the twenty-third day of December, in the twenty-ninth year of the reign of Her Majesty Queen Victoria, and in the year of our Lord one thousand eight hundred and sixty-five, upon the application of the above-named plaintiff Joseph Robinson, and upon hearing read the notice of motion and the various orders, affidavits and proceedings had, taken and made in the said cause, and in pursuance of the sixty-third section of the twelfth chapter of the Consolidated Statutes for Upper Canada, and of the said Act passed in the twenty-eighth year of the reign of Her Majesty Queen Victoria, chapter thirty-five, it was ordered that the lands and premises in question in the said cause, being composed of all the lands, rights, privileges, franchises and appurtenances belonging, or in any way appertaining to the said Ottawa and Prescott Railway Company situate in the City of Ottawa, and in the Townships of Gloucester, Osgoode and North Gower, in the County of Carleton, and in the Townships of South Gower, Oxford and Edwardsburgh, and in the town of Prescott, in the County of Grenville, together with all workshops and buildings thereon erected, and the engines, tools, stock and other property contained therein, and all the rights, claims, privileges, tolls, revenues, franchises, and appurtenances of the said railway and all other property of the said Company wheresoever situated, and of whatsoever kind, character or description, including the rolling stock thereof, should be and the same were thereby vested in the said plaintiff, Joseph Robinson, his heirs and assigns for ever, for all the estate, right, title, and interest of the said plaintiffs (other than the said Joseph Robinson), and of the said defendants therein; And whereas, by the twelfth chapter of the Consolidated Statutes for Upper Canada, it is enacted that in every case in which the Court has authority to order the execution of a deed, conveyance, transfer, or assignment of any property, real or personal, the Court may make an order or a decree vesting such real or personal estate in such person or persons, and in such manner, and for such estates as would be done by any deed, conveyance, assignment, or transfer if executed; and that thereupon the order

Sale of Railway.

Order in Chancery 23 Decr. 1865.

Con. Stat. U. C. c. 12.

Digitized by Google

order or decree shall have the same effect at law and in equity as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise for the same estate or interest, to the person in whom the same is so ordered to be vested; And whereas, by letters patent under the Great Seal of the Province of Canada, bearing date the second day of February, in the year one thousand eight hundred and sixty-six, all those parcels or tracts of land situate, lying and being in the City of Ottawa, in the County of Carleton aforesaid, containing by admeasurement one acre and sixty-five thousand square links, more or less, and being composed of lots numbered four, five and six on the west side of Dalhousie Street, lots numbers ten, eleven, twelve and thirteen, on the north side of Bolton Street, and lots ten, eleven, twelve and thirteen on the south side of Boteler Street, in the aforesaid City of Ottawa, were granted unto the said Joseph Robinson, his heirs and assigns for ever;—But in trust to be used, occupied and enjoyed by the said Joseph Robinson, his heirs and assigns, as a depôt ground, and for all or any the uses of and in connection with the Ottawa and Prescott Railway and its appurtenances; And whereas, by a certain deed poll, bearing date on or about the twenty-ninth day of June, in the year one thousand eight hundred and sixty-six, reciting as is hereinbefore set forth, and further reciting that although the said Joseph Robinson was adjudged the purchaser of the said railway, as set forth in the thereinbefore recited order of the Court of Chancery for Upper Canada, yet in truth and fact the same was so purchased and acquired by him on behalf of other persons thereinafter named in the schedule thereunto annexed, together with himself, in the various interests, shares, or proportions thereinafter in the said schedule mentioned, and that the name of the said Joseph Robinson was used in the said purchase and in the said recited order as a Trustee for such other persons in respect of such interests, shares, or proportions, together with the interest, share or proportion of him, the said Joseph Robinson therein; and that the said Joseph Robinson had agreed to execute such a declaration of trust as was thereinafter contained: it is witnessed that the said Joseph Robinson, his heirs, executors, administrators and assigns, shall thenceforth stand seized or possessed of all the lands, rights, privileges, franchises, and appurtenances belonging or in any way appertaining to the Ottawa and Prescott Railway Company, situate as in the said deed poll and hereinafter mentioned and set forth, together with all workshops and buildings thereon erected, and the engines, tools, stock, and other property contained therein, and all the rights, claims, privileges, tolls, revenues, franchises, and appurtenances of the said railway, and all other property of the said Company wheresoever situated, and of whatsoever kind, character, or description, including the rolling stock thereof, as the same was vested in the said Joseph Robinson, by the thereinbefore recited order of the Court of Chancery for Upper Canada, and also all those parcels or tracts of land in the deed now

Letters Patent 2nd Feb. 1866.

Trust.

Deed Poll 29 June, 1866.

Digitized by Google

now in recital particularly mentioned as granted to the said Joseph Robinson by the said letters patent, in trust for the several persons named in the schedule thereunto annexed and which schedule is to be taken and read as part of the instrument now in recital, and their heirs, executors, administrators, and assigns, according to the several shares, interests, or proportions in the said schedule mentioned, and according to the nature and quality of the same property respectively; And the schedule referred to in the deed poll now in recital is to the following effect:—

Schedule to said deed.

Schedule of proprietors of the Ottawa and Prescott Railway:—

The Ebbw Vale Company - - -	$405,492 69
Thomas Robinson - - - - -	127,242 25
Robinson and Eyre - - - - -	161,324 25
W. D. Starling - - - - - -	6,792 60
F. A. Tamplin - - - - -	11,887 65
Bailey Brothers & Co. - - - -	27,170 36
Thomas Reynolds - - - - -	50,000 00
	$789,909 20

Deed of 18 April, 1867.

And whereas, by a certain deed, bearing date on the eighteenth day of April, one thousand eight hundred and sixty-seven, reciting the several matters as hereinbefore mentioned and set forth, and that in the re-establishment and re-equipment and otherwise in respect of the said railway upon and since the purchase thereof by the said Joseph Robinson as hereinbefore recited, and in the placing of the same in proper working order and in the provision of additional necessary rolling stock, engines, cars, trucks, machinery, plant, and other appurtenances, debts had been incurred and were then outstanding, and it was necessary and expedient for further and other purposes in the respects aforesaid, and for the more perfect and thorough re-establishment and re-equipment of the said railway and for procuring further additional rolling stock, engines, cars, trucks, machinery, plant, and other appurtenances, for promoting and extending the operations of the said railway, that a further sum of money should be raised and provided; and that for the purposes of payment of such outstanding debts and of such further provision as aforesaid, the said Joseph Robinson, by and at the request of the petitioners hereinafter mentioned, on their own behalf, were about to grant, convey and assign, the said railway, lands, and premises and its rolling-stock, engines, cars, trucks, machinery, plant and other appurtenances, to the Trustees, for the purposes hereinafter mentioned and declared, the partners in the said Ebbw Vale Company, acting therein with the authority of their inspectors, testified by the latter being made parties to and executing the said Deed now in recital, and the said Frederick Augustus Tamplin joining therein to release and assign all

Digitized by Google

all estate and interest of him (if any) in the said premises;—it was witnessed that, for the consideration therein mentioned, he, the said Joseph Robinson, by and at the request of the petitioners, being proprietors of the Ottawa and Prescott Railway, did grant, and the proprietors of the Ottawa and Prescott Railway (so far as concerns the partners in the said Ebbw Vale Company, with such authority as aforesaid) did (according to his and their several shares, interests, or proportions in the same, and so far as he and they lawfully could or might) grant, and the said Frederick Augustus Tamplin, as to all estate and interest of him therein (if any), did thereby release unto the petitioners, Alfred Brown and Thomas Abercrombie Wilton (in the said deed named as Trustees), their heirs, executors, administrators, and assigns, according to the nature and quality of the same respectively, all the lands, rights, privileges, franchises and appurtenances, belonging or in any way appertaining to the Ottawa and Prescott Railway, situate in the City of Ottawa, and in the Townships of Gloucester, Osgoode, and North Gower, in the County of Carleton, and in the Townships of South Gower, Oxford, and Edwardsburgh, and in the Town of Prescott, in the County of Grenville, in the Province of Canada, together with all workshops and buildings thereon erected, and the engines, tools, stock, and other property contained therein, and all the rights, claims, privileges, tolls, revenues, franchises, and appurtenances of the said railway, and all other the property of the said railway wheresoever situated and of whatsoever kind, character, or description, including the rolling stock thereof, as the same was vested in the said Joseph Robinson by the hereinbefore recited order of the Court of Chancery for Upper Canada, and as the same had since been increased and stood at the day of the date of those presents; and also all those parcels or tracts of land situate, lying, and being in the City of Ottawa, in the County of Carleton aforesaid, containing by admeasurement one acre and sixty-five thousand square links, more or less, and being composed of Lots Nos. four, five and six, on the west side of Dalhousie Street; Lots Nos. ten, eleven, twelve and thirteen, on the north side of Bolton street; and lots ten, eleven, twelve and thirteen, on the south side of Boteler Street, in the aforesaid City of Ottawa, as granted to the said Joseph Robinson by letters patent hereinbefore in part set forth, to hold the same upon trust by mortgage or other charge of the premises thereby granted, or by such other ways or means, or by such security as they or he should be thereunto advised, or as to them or him should seem reasonable or expedient, to raise or borrow and take up at interest a sum not exceeding fifty thousand pounds of lawful money of Great Britain, bearing interest as thereinafter mentioned, and that such sum or sums of money to be raised, borrowed or taken up at interest, should be made repayable in certain proportions and denominations, and, upon trust, to sign and deliver to each person from whom any of the said sums should be raised, borrowed,

Trusts.

Further trust.

Digitized by Google

borrowed, or taken up at interest, a certificate or certificates of such denomination or respective denominations as should be equal in the whole to the sum so raised, borrowed, or taken up from such person, and each of which certificates should express or denominate therein the proportion of the said sum of fifty thousand pounds payable thereunder, and should be designated by a consecutive number, and be in the form in the said deed set forth; And a further trust was declared that every such certificate should carry a first charge or lien for the amount thereof, and for any interest overdue and unpaid thereon, upon the said railway, lands, rights, privileges, franchises, and appurtenances, and the engines, tools, stock, and other property, and all rights, claims, privileges, tolls, and revenues thereof; provided that all such certificates were to be on an equality so far as regards the security therefor, and that if at any time thereafter an Act should be passed by the Parliament of the Province of Canada, or of the Dominion of Canada, or of any Province thereof having legislative power in that respect, by which the Proprietors of the Ottawa and Prescott Railway, or any others with them, or any of them should be created a body corporate and empowered to raise money by the issue of bonds or debentures, or by mortgage, or other method or proceeding so as to carry a security, charge, or lien on the railway and property hereby conveyed, or on any part of it, the Trustees or the survivor of them, his heirs, executors, administrators, and assigns, might call upon and require the body corporate thereby created to issue bonds or debentures or to execute a mortgage or mortgages or such other security as might by such Act be authorized, in redemption of or to replace the certificates hereinbefore mentioned, which said certificates so redeemed or replaced should be then delivered up by the registered transferees or holders thereof to be cancelled; And whereas the said Joseph Robinson and others, the proprietors of the Ottawa and Prescott Railway, have presented their petition, setting forth in effect the several statements hereinbefore set forth and recited, and represented that they had no corporate existence or title, and that great difficulty is experienced by them in such respect; And it is by the said petition further alleged, that upon the purchase, by the said Joseph Robinson, of the said Railway, the same had fallen into a great state of disrepair, and was deficient in rolling-stock and in the requisites for efficiently performing traffic and locomotion, and that the petitioners, or some of them, were obliged to lay out and expend large sums in the repair of the Road, and in the necessary provision and equipment for its working; and that under the Deed of Trust hereinbefore mentioned, the sum of fifty thousand pounds sterling was raised as a first charge upon the said Railway and its appurtenances; and that the Railway is the only means of railway communication between the Seat of Government and the River St. Lawrence or any railway, and submitting that it is of great public interest that they should be empowered to maintain and extend the same; and the petitioners

Further trust.

Petition to Parliament.

Digitized by Google

tioners have prayed that an Act may be passed to incorporate them under the name of "The St. Lawrence and Ottawa Railway Company," and to vest therein the Ottawa and Prescott Railway, with the lands, rights, privileges, franchises, and appurtenances thereto belonging or appertaining, as the same were acquired as aforesaid by the said Joseph Robinson, with full power to convert the several interests of the present proprietors thereof into stock or shares, and to open stock or share-books, and also to enable the Company to substitute Bonds or Debentures bearing interest for the several certificates of the Trustees under the said Deed of Trust, heretofore made in and upon the said Railway by the proprietors thereof, or to confirm such certificates as Mortgage Bonds, and also to enable the said Company to sell or lease the said Railway and its appurtenances, and also for power to extend the line of the said Railway, from the City of Ottawa, in either or both of the Provinces of Ontario and Quebec, and, if expedient, to alter the gauge of the Railway, and generally to confer upon the St. Lawrence and Ottawa Railway Company, all powers, rights, and privileges necessary in and for the conduct, management, working and efficiency of the said Railway and its appurtenances; And whereas under the Act firstly hereinbefore recited, authority is given to the Ottawa and Prescott Railway Company to build, purchase, hold, and use steamboats or other vessels to ply on the waters of the Rivers Ottawa and St. Lawrence to any place not more than twelve miles distant from either of the termini of the said Railway; And whereas by such means and under such authority, ferriage may be established on the River Ottawa, between the Provinces of Ontario and Quebec, and on the River St. Lawrence, between the Province of Ontario and the United States of America; And whereas the Ottawa and Prescott Railway, as connecting the seat of Government with the main lines of Railway in Canada and with the proposed Intercolonial Railroad, and as affording unbroken railway connection between the Provinces of Ontario and Quebec, is a work of general advantage to Canada, and it is therefore expedient to grant the prayer of the said petition: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Railway declared of general advantage to Canada.

1. The Ottawa and Prescott Railway, (after the passing of this Act, to be called and known as the St. Lawrence and Ottawa Railway,) is hereby declared to be a work for the general advantage of Canada.

Certain persons incorporated as the St. Lawrence and Ottawa Railway Company.

2. Upon, from and after the passing of this Act, the proprietors of the Ottawa and Prescott Railway, that is to say: Joseph Robinson, Abraham Darby, Henry Dickinson, and William Tothill, lately carrying on business at No. 7, Laurence Pountney Hill, Cannon street, in the City of London, in that part of the United Kingdom of Great Britain and Ireland called

Digitized by Google

England, as Iron Masters, under the name, style, and firm of "The Ebbw Vale Company," but whose estate is now being wound up under a certain deed of inspection, Thomas Robinson, of No. 118, Cannon street, in the City of London aforesaid, Esquire, in his own behalf, the said Thomas Robinson and Alexander Robert Eyre, carrying on business at No. 118, Cannon street, in the City of London aforesaid, under the name, style, and firm of Robinson and Eyre, William Dallison Starling, of the City of London aforesaid, Metal Broker, Ferderick William Burgoyne Vernon, of Liverpool, England, aforesaid, Cotton Broker, assignee of the estate and effects of Frederick Augustus Tamplin, of Liverpool aforesaid, Merchant, who was, on the fourteenth day of October, one thousand eight hundred and sixty-four, adjudicated a bankrupt by the Court of Bankruptcy at Liverpool aforesaid, on a petition filed the fourteenth day of October, one thousand eight hundred and sixty-four (which said Frederick William Burgoyne Vernon was chosen by the creditors of the said Frederick Augustus Tamplin, at their first meeting, on the second day of November, one thousand eight hundred and sixty-four, and such choice was afterwards confirmed by the said Court,) Crawshay Bailey, M. P., John Crawshay Bailey, Henry Bailey and William Latham Bailey, carrying on business at Liverpool aforesaid, under the name, style and firm of Bailey Brothers and Company, and Thomas Reynolds, of the City of Montreal, in the Dominion of Canada, Esquire, together with all such persons as shall become stockholders in the same after the passing of this Act, shall be and they are hereby ordained and declared to be a body corporate and politic, for all and every the purposes hereinafter mentioned, by and under the name, style and title of "The St. Lawrence and Ottawa Railway Company," and by that name they and their successors shall have perpetual succession, and may have a common seal, and may change and alter the same at pleasure.

Railway and property vested in the Company.

3. The said Ottawa and Prescott Railway, and all the lands, rights, privileges, franchises and appurtenances belonging or in any way heretofore appertaining thereto, situate in the City of Ottawa, and in the Townships of Gloucester, Osgoode and North Gower, in the County of Carleton, in the Province of Ontario, and in the Townships of South Gower, Oxford and Edwardsburgh, and in the Town of Prescott, in the County of Grenville, in the said Province, together with all workshops and buildings thereon erected, and the engines, tools, stock and other property contained therein, and together also with all the rights, claims, privileges, tolls, revenues, franchises and appurtenances of the said Railway, and all other property heretofore of the said The Ottawa and Prescott Railway Company, wheresoever situated, and of whatsoever kind, character or description, including the rolling stock thereof, the whole as the same were acquired by and are vested in the said Joseph Robinson, under the Act of the twenty-eighth year

Digitized by Google

year of Her Majesty's reign, and the Order of the Court of Chancery hereinbefore recited; and also all those parcels or tracts of land situate, lying and being in the City of Ottawa aforesaid, containing by admeasurement one acre and sixty-five thousand square links, more or less, and composed of Lots numbers four, five and six, on the west side of Dalhousie street, lots numbers ten, eleven, twelve and thirteen, on the north side of Bolton street, and lots numbers ten, eleven, twelve and thirteen, on the south side of Boteler street, in the said City of Ottawa; together with all such additional rolling stock, engines, cars, trucks, machinery, plant and other appurtenances, as may be in or upon the said Railway at the time of the passing of this Act, are hereby confirmed to and absolutely vested in the St. Lawrence and Ottawa Railway Company.

4. The capital stock of the Company shall not exceed in the whole the sum of one million five hundred thousand dollars; and in respect of the sum of seven hundred and eighty-nine thousand nine hundred and nine dollars and twenty cents, part thereof, the parties named in Schedule A, to this Act annexed, shall be interested as stockholders to the extent of the sums set opposite to their respective names, and the same shall be and constitute, to that extent, the paid-up stock of the Company; And the directors of the Company may, from time to time, dispose of, place or allot any portion of the balance of the said stock to any person or persons at such price or prices, or for such consideration or considerations, and in such amounts, and bearing such rank, position, or priority in respect to any other shares, and in such class or classes of order in respect as well to the principal amount of such shares as the interest or dividends therein and so designated and upon such conditions as the directors may from time to time deem expedient; Provided that no preference stock shall be issued unless with the approval of a majority in value of the stockholders, present, or represented by proxy, at a special general meeting called to consider the same, and that no allotment shall in any way interfere with the first security, charge or lien in and upon the said Railway, created by the Deed of Trust hereinbefore recited, and declared in and by the sixth section of this Act; Stock books shall be opened, for the subscription therein of the signatures of the several parties owning the said paid-up stock, and, on the allotment from time to time of the balance of the capital stock, for subscription therein of the several parties taking the same.

Capital of the Company.

Allotment of stock.

Proviso.

Stock books.

5. The capital stock may be divided into shares of one hundred dollars each, if the Directors think fit.

Shares.

6. The Deed of Trust of the eighteenth day of April, one thousand eight hundred and sixty-seven, and the certificates thereunder issued, is and are hereby confirmed, and the sum of fifty thousand pounds sterling money of Great Britain,

Deed of 18 April, 1867, to be a first charge on the Railway.

Digitized by Google

Britain, thereby secured, and the interest thereon, from time to time to become and be payable, is hereby declared to be a first security, charge or lien in and upon the said Railway, its lands, rights, privileges, franchises and appurtenances, tolls and revenues, rolling-stock, plant and machinery, and the lands and premises in the said Deed mentioned, and to have a first preference over and upon any other charge upon the same and any stock of any kind whatsoever, and over and upon any sum or sums of money which may at any time hereafter be raised under the authority of this Act, and for and notwithstanding any Act or Acts of the Legislature of the late Province of Canada to the contrary, no Registration of such Deed of Trust in any office of Registration or of any public officer, shall be necessary; And the Company may issue Bonds or Debentures under the seal of the Company and signed by the President and countersigned by the Secretary thereof, and for any denominations, in the place and redemption of the certificates mentioned in the said Deed of Trust, and the provisions of the said Deed of Trust in respect to such certificates shall apply to any such Bonds or Debentures, and such Bonds or Debentures shall in like manner have and be a first security, charge or lien upon the Railway, its lands, rights, privileges, franchises and appurtenances, tolls and revenues, rolling-stock, plant and machinery; or the Company may cause to be endorsed upon each or any of the said certificates to the effect that the same is confirmed by Act of Parliament of Canada, the seal of the Company and signature of the President being thereto affixed.

Company may issue bonds in place of certificates mentioned in the said deed.

Or indorse certificates.

Provisional Directors.

7. The affairs of the Company shall be administered and its powers exercised until the first general meeting of the stockholders, by a Provisional Board of Directors, to consist of the said Joseph Robinson, Thomas Robinson, Alexander Robert Eyre, Thomas Reynolds and William Quilter.

Certain By-laws continued until altered.

8. Until any change, alteration or variation in any of the by-laws or tolls or rates of passenger or freight traffic or carriage be made by a Board of Directors duly qualified in that behalf, the by-laws, tolls, and rates of passenger or freight traffic or carriage in force or receivable at the time of the passing of this Act, or so much thereof as may not be changed, altered or varied, may be enforced, received and recovered respectively.

Recital of certain instruments.

9. And whereas, by instrument or instruments bearing date on the eighteenth day of April, in the year one thousand eight hundred and sixty-seven, the several parties hereinbefore named proprietors of the said Railway, constituted and appointed the said Thomas Reynolds the attorney of them and each and every of them, to continue in the possession then held by him on their behalf respecting all the lands, rights, privileges, franchises and appurtenances belonging to the said Ottawa and Prescott Railway, and to work, manage and conduct

Digitized by Google

conduct the same and the traffic and business thereof, and generally to do and perform all and everything whatsoever relating to the premises: it is enacted, that until the first election of directors of the Company, as hereinafter authorized, the said Thomas Reynolds shall be the Managing Director of the Company, and shall have all and every such powers, privileges and authority in respect of the St. Lawrence and Ottawa Railway Company as are given to him by the said instrument or instruments; Provided that the said instrument or instruments be filed in the office of the Secretary of State for Canada within one month after the passing of this Act.

T. Reynolds, to be Managing Director until first election.

Proviso.

10. The Provisional Board of Directors shall, within six months after the passing of this Act, call a meeting of stockholders at such time and place in the City of London, England, as they shall think proper, at which said meeting and at the annual general meeting hereinafter mentioned, the stockholders present either in person or by proxy, shall elect not less than five nor more than seven directors qualified as hereinafter provided, which said directors shall constitute a Board of Directors, and three directors shall form a *quorum* for the transaction of business; Provided, however, that no person shall be elected a director unless he shall be the holder and owner of at least five thousand dollars of the stock of the Company, paid up.

Meeting of stockholders to be called.

Election of Directors.

Proviso.

11. The Board of Directors may have their office in the City of London, England, and may depute one of their number resident in Canada to be Managing and paid Director of the Company in Canada, and he shall have such power as may be vested in him by the Board of Directors; and the Managing Director, for the time being resident in Canada, may be represented at the meetings of any such Board by any other member thereof, under proxy to that effect, who may exercise on behalf of such Managing Director, all the rights, powers and privileges of a Director at such Board.

Office in London England.

Proxy of Managing Director.

12. In the elections of directors under this Act, and in the transaction of all business at General Stockholders' Meetings, each stockholder shall be entitled to one vote for every one hundred dollars of paid up stock owned by him, at the time of closing the books preparatory to such meeting, and if the stock shall have been divided into shares, no shareholder shall be entitled to vote in respect of any shares on which any call shall at the time of such meeting be in arrear, and no stockholder in the Company shall be in any manner whatsoever liable for or charged with any debt or demand due by the Company beyond the payment of the extent of his, her or their share in the capital of the Company not paid up.

Votes at meetings of stockholders.

13. The Company shall have power and authority to become parties to promissory notes and bills of exchange, for sums not less

Company may become

Digitized by Google

parties to notes, &c.

less than twenty-five pounds; and any such promissory note made or endorsed in conformity with the By-Laws of the Company shall be binding on the Company; and every such promissory note or bill of exchange so made shall be presumed to have been made with proper authority, until the contrary be shewn; and in no case shall it be necessary to have the Seal of the Company affixed to such promissory note or bill of exchange, nor shall the said Managing Director, or the Secretary and Treasurer, be individually responsible for the same, unless the said promissory notes or bills of exchange have been issued without authority; provided, however, that nothing in this section shall be construed to authorize the Company to issue notes or bills of exchange payable to bearer, or intended to be circulated as money, or as the Notes or Bills of a Bank.

Proviso.

Power to continue Railway into Province of Quebec.

14. The Company and their agents and servants shall have full power and authority, under this Act, to extend, lay out, construct, make and finish a double or single track of Railway of iron at their own costs and charges, of such width or gauge as the Company see fit, from a point on the line of the said Railway to a point on the River Ottawa or Lake Deschesnes, in the County of Ottawa, in the Province of Quebec; and for such purposes, shall have full power to erect and construct a Bridge or Bridges across the River Ottawa, at such place at or near the Chaudière Falls as may seem most expedient, as also over and across the Rideau River and Rideau Canal.

Commencement and completion of extension.

15. The power given in the next preceding section shall be exercised by the commencement of the said work, within five years from the passing of this Act, and its completion within ten years therefrom.

Deeds of land to the Company.

Form and registration of.

16. All deeds and conveyances of lands to the Company, for the purposes of this Act, in so far as circumstances will admit, may be in the form given in Schedule B, to this Act subjoined, or in any other form to the like effect; and for the purposes of due enregistration of the same, all Registrars, in their respective Counties, are required to be furnished, by and at the expense of the Company, with a book with a copy of the form given in the said Schedule, one to be printed on each page, leaving the necessary blanks to suit the circumstances of each separate conveyance, and shall, upon the production and proof of due execution of any such conveyance, enter the same, and shall minute the enregistration or entry on the Deed; and the Registrar shall charge and receive from the Company for all fees on every such enregistration, the sum of fifty cents, and no more; and such registration shall be deemed to be valid in law, any Statute or provision of law to the contrary notwithstanding.

Fees to Registrar.

Power to enforce payment of tolls.

17. In case of neglect or refusal to pay the toll or freight due to the Company on any goods, they shall have the power to

Digitized by Google

to detain the same until payment of such freight be made, and in the meantime such goods shall be at the risk of the owner; and if such goods be of a perishable nature, the Company shall have the right to sell the same forthwith, on the certificate of two competent persons, establishing the fact of their being so perishable; and if such goods are not of a perishable nature and shall remain unclaimed for six months, the Company may, after giving one month's notice in two newspapers nearest the place where the goods may be, dispose of the same by public auction, and the proceeds of the sale, after paying the said Freight, Storage and costs of advertisement and sale, shall be handed over to the owner if he shall claim the same.

Certain powers and provisions vested and extended to the Company.

18. All and every the rights, privileges and powers conferred upon the Bytown and Prescott Railway Company and the Ottawa and Prescott Railway Company, by or under any Act hereinbefore recited and any other Act of the Legislature of the late Province of Canada, and by the Act hereinbefore recited conferred upon the purchaser of the Ottawa and Prescott Railway, shall be and are hereby vested in the St. Lawrence and Ottawa Railway Company, and in so far as they are not inconsistent therewith, or with any such Act, or with this Act, as regards the Railway heretofore constructed, and in respect to the extension of the said Railway authorized by this Act, the several clauses of an Act of the Legislature of the late Province of Canada, known as "The Railway Act" with respect to the first, second, third and fourth clauses thereof, and also the several clauses of the said Act, with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "Directors, their election and duties," "Shares and their transfer," "Municipalities," "Shareholders," "Actions for Indemnity, and Fines and Penalties and their prosecution," "Working of the Railway," and "General Provisions," and an Act of the said late Province known as "The Railway Act Amendment Act of 1860," and an Act passed by the Legislature of the late Province of Canada, in the twenty-fourth year of Her Majesty's Reign, intituled: "An Act to explain and amend the Railway Act," shall be incorporated with this Act; and the expression "this Act," when used herein shall be held and understood to include the clauses incorporated with this Act, save and except in so far as they are inconsistent with or varied by any of the provisions of any of the said hereinbefore recited Acts, or of this Act; and subject always to the following modification of the tenth section of "The Railway Act," that is to say, that lands to the extent of twenty acres for Stations, Depôts and other works wheresoever they may be necessary, may be taken by the Company, subject, however, to the provisions of the said Act in that behalf.

Proviso as to s. 10 of the Railway Act.

Digitized by Google

Interpretation. **19.** The expression "the Company," when used in this Act, means the St. Lawrence and Ottawa Railway Company hereby incorporated.

Short Title. **20.** This Act may be known and cited as the "The St. Lawrence and Ottawa Railway Act."

SCHEDULE A.

Joseph Robinson, Abraham Darby, Henry Dickinson and William Tothill, lately trading as the Ebbw Vale Company	$405,492.69
Thomas Robinson	127,242.25
Robinson & Eyre	161,324.25
W. D. Starling	6,792.60
Frederick William Burgoyne Vernon, assignee of F. A. Tamplin	11,887.65
Bailey, Brothers & Co	27,170.36
Thomas Reynolds	50,000.00
	$789,909.20

SCHEDULE B.

FORM OF DEED OF SALE.

Know all men by these presents, that I, A. B., do hereby in consideration of paid to me by the St. Lawrence and Ottawa Railway Company, the receipt whereof is hereby acknowledged, grant, bargain, sell and convey unto the said The St. Lawrence and Ottawa Railway Company, their successors and assigns, all that tract or parcel of land (*describe the land*,) the same having been selected and laid out by the said Company for the purposes of their Railway, to have and to hold the said land and premises unto the said Company, their successors and assigns for ever.

Witness my hand and seal, this day of one thousand eight hundred and

Signed, sealed and delivered, in presence of

A. B. (L. S.)

CAP.

Digitized by Google

CAP. XXI.

An Act to amend and consolidate the several Acts incorporating and relating to the Canadian Inland Steam Navigation Company, and to change its corporate name to that of the Canadian Navigation Company, and for other purposes.

[*Assented to 21st December*, 1867.]

Preamble.

WHEREAS the Canadian Inland Steam Navigation Company have prayed that the Act by which they are incorparated and the several Acts amending the same may be amended and consolidated, and that the capital Stock of the Company may be increased, and that authority may be granted to the said Company to extend their business throughout the Dominion of Canada and to other British American Atlantic and West Indian Ports, and that the Company may be henceforth designated as the Canadian Navigation Company, and it is expedient to grant their prayer: Therefore, Her Majesty, by and with the advice consent and of the Senate and House of Commons of Canada, enacts as follows:

Incorporation of the Company to continue.

Corporate name changed.

Proviso: not to be deemed a new corporation.

1. The shareholders of the Canadian Inland Steam Navigation Company, incorporated by the Act of the Provincial Parliament of the late Province of Canada, passed in the Session thereof held in the twentieth year of Her Majesty's reign, and intituled: *An Act to incorporate the Canadian Inland Steam Navigation Company*, and the acts amending the same, together with such person or persons as shall be and become stockholders in the said Company, and their and each of their respective heirs, executors, admnisirators, curators and assigns, shall be and continue to be a body politic and corporate, by the name of the "Canadian Navigation Company," with all and every the incidents and privileges to such corporation belonging, and shall by that name have perpetual succession and a common seal, and by the same name be capable of suing and being sued in all Courts of Justice in this Dominion; Provided always, that nothing herein contained shall be construed to make the said Company a new corporation or in any way whatever to affect any right or liability of the said Company or any action, suit or proceeding pending at the time of the passing of this Act.

Business of the Company and powers for carrying it on.

2. It shall be lawful for the Company to construct, acquire, charter, navigate and maintain steam-vessels for the carrying and conveyance of goods and passengers, or other traffic, between the ports of the Dominion of Canada, and the ports on the Lakes connected with and on the rivers falling into the River St. Lawrence, and between ports in the Dominion of Canada and ports in the Islands of Newfoundland and Prince Edward Island and in the West Indies, and any or all of them, and

Digitized by Google

and *vice versâ*, and also steam or other vessels for all business and other purposes connected therewith, and the profitable prosecution thereof, with power to sell, charter or dispose of the said vessels, or any of them, or grant or consent to bottomry or other bonds on the same or any part thereof, when and as they may deem expedient; and to make contracts, and agreements with any person or Corporation whatsoever, for the purposes aforesaid, or otherwise, for the benefit of the Company.

Power to hold real property.

3. It shall be lawful for the said Company to purchase, rent, take, hold and enjoy, to them and their successors, as well in this Dominion as in such other places where it shall be deemed expedient for the purposes of the said Company, either in the name of the said Company, or in the name of Trustees for the said Company, such lands, docks, wharves, warehouses, offices and other buildings as they may find necessary or convenient for the purposes of the said Company, but not for any other purpose; and to sell, mortgage, lease or dispose of the same when not wanted for the purpose of the said Company, and others to purchase or acquire in their stead; Provided always, that the yearly value of such lands, wharves, docks, warehouses, offices and other buildings, within the Dominion of Canada, at the time when the said Company shall enter into possession thereof, shall not exceed in the whole the sum of forty thousand dollars.

Proviso: value limited in Canada.

Capital, and how it may be increased.

4. The capital of the said Company, raised and to be raised amongst the shareholders, shall be five hundred thousand dollars, in five thousand shares of one hundred dollars each, with power to a majority of such of the shareholders as shall be present either in person or by proxy at any general or special meeting of the Company, to increase the same at once or from time to time, as may be expedient, to twenty thousand shares, or two millions of dollars; and stock books for the same may be opened, as shall be ordered by the directors; and the present shareholders in the said Canadian Inland Steam Navigation Company shall have the same number of shares of stock in the Corporation hereby created, and shall, in all respects, be in the same position towards the said Corporation, in respect of such shares, as they had, or were entitled to have, and as they held or were entitled to hold in the said Company.

Stock books.

Rights of present shareholders.

Calls on stock.

5. The directors of the said Company may call in such increase of the capital stock, in such sums as they may see fit, provided no larger sum than twenty per cent. of the amount subscribed shall be payable at one time, and that at least one month shall elapse between each payment.

Board of directors constituted.

6. The business and affairs of the said Company shall be conducted and managed, and its powers exercised by a board of seven directors to be annually elected by the shareholders and who shall severally be shareholders to an amount of four thousand

Digitized by Google

thousand dollars of the said stock, and who shall be elected at the annual general meetings of the said Company by the shareholders then present, in person or by proxy.

7. It shall be lawful for the Company at an annual meeting or special general meeting, convened for the purpose, to make by-laws, rules and regulations for the conduct and management of the business, affairs, real estate, vessels, stock, property and effects of the Company, and the same to amend, alter, repeal and re-enact, as shall be deemed needful and proper; and the said by-laws, rules and regulations shall, among other things particularly apply to and affect the following matters :— By-laws, how to be made, and for what purposes.

1. The opening of stock books for the subscription to the capital stock of the said Company in Montreal or elsewhere, whether in Canada or any other country; the calling up and payment from time to time of the capital stock of the said Company, and of the increase thereof, and of the calls thereon as hereinbefore provided, and the conversion of the shares thereof into stock; Stock books. Calls. Conversion of shares into stock.

2. The issue of certificates to the respective shareholders of the said Company of their shares or stock therein and the registration thereof, and of the addresses of the shareholders for the purposes of the Company; Stock certificates.

3. The forfeiture or sale of shares or stock for non-payment of calls or other liabilities of the shareholders; Forfeiture &c. for non-payment of calls.

4. The sett-off of all the debts due to the said Company from the shareholders against such shares or stock and dividends or payment to which they may be entitled; Setting off debts to Company from stockholders.

5. The transfer of shares or stock, and the approval and control by the directors of such transfer and of the proposed transferees, and as to the remedy against transferees; Transfer of Stock.

6. The declaration and payment of profits of the said Company, and dividends in respect thereof; Dividends.

7. The formation and maintenance of a sinking or reserve fund; Reserve fund.

8. The appointment, removal and remuneration by the directors of all such managers, agents, officers, clerks or servants of the Company as they shall deem necessary for carrying on the business of the said Company, and the security if any, to be taken from such parties respectively for the due performance of their respective duties; Removal and remuneration of officers.

9. The calling of general, special or other meetings of the Company and directors, in this Dominion, and the quorum and the Meetings. Quorum.

Digitized by Google

Proviso: one vote for each share.

the business to be transacted thereat respectively; provided always, that at any such meetings all questions may be decided by the vote of such of the shareholders as shall then be present either in person or by proxy, each shareholder being entitled to one vote for every share of stock held by him, the chairman having, however, in case of an equality of votes, a casting vote in addition to such vote as he may be otherwise entitled to as a shareholder of the Company;

Casting vote.

Executing deeds, bills, &c.

10. The making and entering into deeds, bills, notes, agreements, contracts, charter-parties and other documents and engagements to bind the Company, whether by the directors or their agents as may be deemed expedient;

Borrowing or lending money.

11. The borrowing or advancing money for promoting the purposes and interests of the Company, and the securities to be given by or to the said Company for the same;

Minutes and accounts.

12. The keeping of minutes of the proceedings and the accounts of the said Company, and making the same conclusive and binding on the shareholders, and rectifying any errors which may be therein;

Audit.

13. The auditing of the accounts and appointment of auditors;

Proviso: as to prevent by-laws.

14. Provided that the said by-laws, rules and regulations are not contrary to the present Act nor the laws of this Dominion, and that the existing by-laws of the Company shall continue in force and effect until altered or repealed by the shareholders.

Certificates of shares and acceptance by stockholders.

8. The directors of the said Company, shall from time to time, issue to each of the shareholders respectively, certificates under the seal of the Company, of the number of shares to which he is entitled, and he shall then be the legal owner of such shares, and invested with all the rights, and subject to all the liabilities of a shareholder in respect of such shares, and each person to whom any share or shares shall be assigned, shall sign an acknowledgment of his having taken such share or shares, which acknowledgment shall be kept by the directors, and shall be conclusive evidence of such acceptance, and that the person signing it has taken upon himself the liability aforesaid.

Calls may be recovered by action, and how.

9. In case the said directors shall deem it more expedient in any case to enforce the payment of any unpaid instalment than to forfeit or sell the said shares therefor, it shall and may be lawful for the Company to sue for and recover the same from such shareholder with interest thereon, in any action in any Court having civil jurisdiction, to the amount claimed; and in any such action, it shall be sufficient to allege that the defendant is the holder of one or more shares, (stating the number of shares,) and is indebted to the Company in the sum

to

Digitized by Google

to which the calls in arrear may amount; and to maintain such action, it shall be sufficient that the signature of the defendant to such acknowledgment as hereinbefore mentioned, shall be proved, and that the calls in arrear have been made, and a certificate under the seal of the Company, or sealed by any one or more of the directors, shall be sufficient evidence of the calls having been duly made and being in arrear, and the amount due in respect thereof; provided that nothing herein contained shall in any way affect the right of the said Company to forfeit the shares of any shareholder for non-payment of calls or subscriptions, whether after or before such judgment for recovery thereof.

What only need be alleged aud proved.

Proviso.

10. The capital stock, and increase thereof, of the said Company, is hereby directed and appointed to be laid out and applied for and towards carrying out the purposes of the Company, and to no other use, intent or purpose whatsoever.

To what purposes the capital shall be applied.

11. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the said shares may be subject, and the receipt of the party, in whose name any such share shall stand in the books of the Company, shall, from time to time, be a discharge to the Company for any dividend or other sum of money payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the Company have had notice of such trust; and the Company shall not be bound to see to the application of the money paid upon such receipt.

Company not bound to see to trusts, to which shares may be subject.

12. When any share shall have become transmitted in consequence of the bankruptcy, insolvency, death or marriage of a shareholder, or otherwise than by the ordinary transfer upon the books of the Company, the assignee, executors or administrators, tutors, curators or husband, or other legal representative of such shareholder, shall not be entitled to receive any profits of the Company, or to vote in respect of such share, until such share shall have been transmitted in the books of the Company to the name of such assignee, executor or administrator, tutor, curator, husband or representative, as the case may be, in the manner provided by the by-laws of the Company.

Case of transmission of stock otherwise than by regular transfer, provided for.

13. The annual general meeting of the said Company, shall be held in the office of the Company, in the city of Montreal, on the first Wednesday in February in each year; for the purpose of electing directors, and for transacting the general business of the Company; at this meeting the President of the Company, or, in his absence, the Vice-President, and in the absence of both, then one of the directors, shall take the chair.

Annual general meetings.

Chairman.

Votes and proxies.

14. No shareholder shall be entitled to vote at any meeting of the Company, or be capable of election as a director, who shall

Shareholders in arrear not to vote.

Digitized by Google

shall then be in arrear for the payment of any calls then actually due on his shares.

Election of President, &c.

He may call meetings of directors.

15. The directors elected at the annual meeting aforesaid, shall assemble within one month of their election, and shall then elect from amongst themselves, by a majority of votes of those present, a President and a Vice-President; the President, or in his absence, the Vice-President may call meetings of the directors as often as the occasion may require.

Quorum of directors.

Vacancies, how filled.

16. The quorum of the directors for the transaction of business shall be three; and in the event of the office of a director becoming vacant from death, resignation, or disqualification, such vacancy shall be filled up for the remainder of the term of office of such director, by the remaining directors, from among the duly qualified shareholders, and in the event of any disagreement between the Directors as to the election to such vacancy and an equal division of votes, the chairman shall have a second or casting vote.

Failure of election not to dissolve the corporation, &c.

17. If at any time it shall happen that an election of directors shall not be made on any day when, pursuant to this Act, it ought to have been made, the said Corporation shall not, for that cause, be deemed to be dissolved, but it shall and may be lawful on any other day, to hold and make an election in the same manner as the annual election of directors is in this Act provided for; and until such election is held the previous directors shall remain in office.

Things done by acting directors confirmed.

18. All acts participated in by any person acting as director shall, notwithstanding there may have been some defect in the appointment or qualification of such person, be as valid as if such person had been duly appointed and was qualified to be a Director; provided such defect or disqualification has not previously been brought before the directors at a meeting thereof.

Directors may exercise their powers out of Canada, or by agents.

Exception.

Acts of agents to be valed.

19. The directors of the said Company may act as directors in this Dominion, or elsewhere, and shall and may appoint one or more agents in this Dominion or elsewhere, and for such time, and on such terms as to them shall seem expedient, and the directors may, by any by-law to be made for such purpose, empower and authorize any such agent or agents to do and perform any act or thing, or to exercise any powers which the directors themselves, or any of them, may lawfully do, perform and exercise, except the power of making by-laws; and all things done by any such agent by virtue of the powers in him vested by such by-law, shall be valid and effectual to all intents and purposes as if done by such directors themselves; any thing in this Act to the contrary notwithstanding.

20.

Digitized by Google

20. The directors shall have power, if they think, fit to receive and take into the stock of the Company, any steam or other vessels owned or built by any other party or parties, assigning shares of the said Company in payment or part payment thereof; Provided that the assent of a majority of the stockholders of the Company, at a general meeting to be called for that purpose, shall be procured before any proceedings under this clause shall be valid.

Acquiring vessels or shares in them.

Proviso.

21. Every contract, engagement, or bargain by the Company, or by any one or more of the directors on behalf of the Company, or by any agent or agents of the Company, and every promissory note made or endorsed, and every bill of exchange drawn, accepted or endorsed by such director or directors on behalf of the Company, or by any such agent or agents, under the powers to be delegated to and conferred on them respectively in accordance with the said by-laws, shall be binding upon the said Company; and in no case shall it be necessary to have the seal of the said Company affixed to any such contract, agreement, engagement, bargain, promissory note, or bill of exchange; Provided always, that nothing in this section shall be construed to authorize the said Company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money or as notes of a bank.

Contracts, &c., may be validly executed without the corporate seal of the Company.

Proviso: Company not to issue bank notes.

22. The shareholders shall not as such be held liable for any claim, engagement, loss or payment, or for any injury, transaction, matter or thing relating to or in connection with the said Company, or the liabilities, acts or defaults of the said Company, beyond the amount of their respective shares remaining unpaid.

Liability of shareholders limited.

23. The shares and the capital stock of the said Company shall be deemed personal estate, and shall be transferable as such.

Stock to be personalty.

24. All notices of the annual or other general meetings or of calls upon the shareholders of the Company, shall be published in the *Official Gazette*, and by circulars transmitted through the Post Office, addressed to each of such shareholders.

Notices of meetings.

25. All the stock and assets of the Canadian Inland Steam Navigation Company, shall remain vested in the corporation hereby created; which shall also remain responsible for all the liabilities of the said Company; the whole to the same extent and in the same manner, and with the same rights and remedies, as if such stock and assets had been originally vested therein—and such liabilities had originally been incurred thereby.

Stock and liabilities of Company to remain as before.

26.

Digitized by Google

Former acts repealed.

Exception.

26. The Act of Incorporation mentioned in the first Section of this Act, and the several Acts subsequently passed in amendment of the same, are hereby repealed, except in so far as the provisions thereof may require to be kept in force, to carry out the full extent and meaning of this Act.

Public Act.

27. This Act shall be deemed a Public Act.

OTTAWA :—Printed by Malcolm Cameron,
Law Printer to the Queen's Most Excellent Majesty.

Digitized by Google

1867.—31 VICTORIÆ.

FIRST SESSION, FIRST PARLIAMENT.

TABLE OF CONTENTS.

Caps. PAGES

1. An Act respecting the Statutes of Canada..... 57
2. An Act respecting the Office of Speaker of the House of Commons of the Dominion of Canada..... 66
3. An Act relating to the Indemnity to Members and the Salaries of the Speakers, of both Houses of Parliament..... 67
4. An Act for granting to Her Majesty a certain sum of money required for defraying the expenses of the Public Service not otherwise provided for, for the period therein mentioned, for certain purposes respecting the Public Debt; and for raising money on the credit of the Consolidated Revenue Fund..... 70
5. An Act respecting the collection and management of the Revenue, the Auditing of Public Accounts, and the liability of Public Accountants 73
6. An Act respecting the Customs..... 88
7. An Act imposing Duties of Customs, with the Tariff of Duties payable under it..... 143
8. An Act respecting the Inland Revenue..... 156
9. An Act to impose Duties on Promissory Notes and Bills of Exchange 211
10. An Act for the regulation of the Postal Service..... 217
11. An Act respecting Banks..... 251
12. An Act respecting the Public Works of Canada..... 258
13. An Act respecting the construction of "The Intercolonial Railway." 277
14. An Act to protect the inhabitants of Canada against lawless aggressions from subjects of Foreign Countries at Peace with Her Majesty..... 283
15. An Act to prevent the unlawful training of persons to the use of arms, and the practise of Military evolutions; and to authorize Justices of the Peace to seize and detain arms collected or kept for purposes dangerous to the public peace..... 285
16. An Act to authorize the apprehension and detention of such persons as shall be suspected of committing acts of hostility or conspiring against Her Majesty's Person and Government.... 289
17. An Act for the Settlement of the Affairs of the Bank of Upper Canada 291

Digitized by Google

Caps. PAGES.

18. An Act to amend the Act of Incorporation of the Commercial Bank of Canada, to authorize its amalgamation with any other Bank or Banks, or for its winding up 301

19. An Act to amend "The Grand Trunk Arrangements Act, 1862," and for other purposes 311

20. An Act to incorporate the St. Lawrence and Ottawa Railway Company 314

21. An Act to amend and consolidate the several Acts incorporating and relating to the Canadian Inland Steam Navigation Company, and to change its corporate name to that of the Canadian Navigation Company, and for other purposes 329

IMPERIAL ACTS.

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith. [Cap. III.] 3

An Act for authorizing a Guarantee of Interest on a Loan to be raised by Canada towards the Construction of a Railway connecting Quebec and Halifax. [Cap. XVI.] 43

An Act to amend the Merchant Shipping Act, 1854. [Cap. CXXIV.] 47

Digitized by Google

INDEX

TO

ACTS OF CANADA.

First Session, First Parliament, 31 Victoria.

PAGES.

ADMISSION OF OTHER COLONIES into the Union.....32-33
Aggression, Lawless, Act to protect Canada from 283
Algoma District, Elections in..... 11
Appeal, Court of, for the whole Dominion..... 25
Arbitration, respecting debts and assets of Ontario and Quebec..... 31
Arbitrators, Official. *See* Public Works..... 265
Arms, unlawful training to use of, Act to prevent..... 285
Audit of public accounts and public accountants. *See* Public Accounts..... 73

BANK OF UPPER CANADA, Act for settlement of affairs of..... 291
Banks, Act respecting, viz:
May have branches throughout Canada..... 251
All to pay duty on circulation..... 252
May hold and dispose of mortgages and mortgaged property 252
May advance money on bills of lading, cove receipts, &c.. 253
Exempted from penalties for usury..... 257
What rates they may recover..... 257
Duration of Act..... 257
Beer, duty on. *See* Inland Revenue..... 168
Bills of Exchange, duty on..... 211
Brewers,—*See* Inland Revenue.
British North America Act, 1867, viz:
Preliminary provisions.....3-4
Union of Canada and the Maritime Provinces, and boundaries of the Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick..... 4
Executive Power,—Governor, Privy Council..... 4
Legislative Power,—The Senate..... 6
House of Commons..... 9
Counties and Representation..... 10
Money votes;—Royal assent..... 13

Digitized by Google

PAGES.

British North America Act, 1867.—*Con.*
Provincial Constitutions:
Executive Power 14
Legislative power in each of the four Provinces. 15
Distribution of Legislative Powers 19
Powers of Parliament of Canada 19
Exclusive Powers of Provincial Legislatures 21
Education 23
Uniformity of Laws in Ontario, Nova Scotia and New Brunswick 23
Agriculture and Emigration 24
Judicature 24
Revenue, debts, assets, taxation 25
Annual allowance to each Province 27
Miscellaneous provisions 28
Senators not to be Legislative Councillors 28
Oath of allegiance, existing laws, &c 29
Ontario and Quebec, special provisions respecting .. 30
Intercolonial Railway 32
British Columbia may enter the Union 32
Admission of other Colonies 32
Schedules of Electoral Divisions in Ontario 33
Of ditto of Quebec specially fixed 39
Public works and property assigned to Canada 40
Assets to belong to Quebec and Ontario conjointly .. 40
Oath of allegiance and declaration of qualification .. 41

CANADIAN NAVIGATION COMPANY, Acts consolidated and name changed 329
Canals. *See* Public Works.
Census of the Provinces comprised in Canada, when to be taken and representation adjusted 4–12
Civil Law, in Ontario, N. Scotia and N. Brunswick, provision for effecting uniformity of 23
Commercial Bank of Canada, Act respecting 301
Consolidated Revenue Fund of Canada 25–28
Conspirators against Her Majesty's person, &c., apprehension of 289
Constitutions, Provincial ..... 14 to 19
Counties and electoral divisions ..... 10 &c., 33
Courts, Laws, Officers, &c., continued under Union Act 29
Cove-keeper's receipts, Banks and others may advance upon 253
Criminal law, and procedure, to belong to Parliament 21
Currency and coinage, Parliamentary power as to 20
Customs, Act respecting, viz:
Preliminary provisions 88
Duties and exemptions from duty, weights and measures, currency, &c 89
Entry inwards, place of entry, &c 90
, report, coasting voyage, inland, &c 92
, general form, payment of duties, &c 94

Digitized by Google

PAGES.

Customs, Act respecting.—*Con.*
Entry inwards, Port of Annapolis—Bras d'or..... 97
, goods damaged or lost, &c., free goods, tare..... 97
, valuation for duty, invoices, bill of sight, &c. 99
, powers of Collector for ensuring fair valuation..... 107
, general provisions.
Warehousing goods, and Warehousing Ports..... 110
Entry outwards, clearance, &c..... 114
Steamers, inwards and outwards..... 116
Bills of health..... 116
Smuggling and offences connected therewith..... 116, &c.
Procedure for enforcing penalties and forfeitures..... 124
Protection of Officers..... 131
Orders in Council, for what purposes, &c..... 132
Miscellaneous provisions, repeal, &c..... 135
Things done under repealed Acts..... 138
Schedule of forms, 139. *And see* Duties of Customs... 143, &c.
Customs and excise laws, after the Union.....27–28

DEAD LETTERS, *see* Postal Service..... 231
Debts (public) of the several Provinces, provisions respecting..... 25
Defence of Canada, works for. *See* Public Works.... 269
Disallowance of Bills.....13–19
Distillers.—*See* Inland Revenue.
Dominion Stock, creation of, authorized, &c..... 72
Duties of Customs, Act imposing..... 143
Packages, value, fish, drawback to P. E. Island, &c.....144–5
Tariff of specific duties..... 146
ad valorem " 148
non-enumerated articles paying 15 per cent..... 148
Free goods, viz:
Arts and science..... 148
Drugs chemicals, &c..... 149
Manufactures and products of manufactures..... 150
Natural products..... 153
Under certain regulations and restrictions..... 155
Growth, &c., of B. N. A. Provinces..... 155
Prohibited goods..... 156
Duties of excise. *See* Inland Revenue.
Duty, on promissory notes and bills of exchange..... 211

EDUCATION, special provisions respecting..... 23
Election Laws, &c., continued until otherwise provided..... 10-18
Entry, *See* Customs.....90 &c.
Excise, duties of. *See* Inland Revenue.....156 &c.
Executive power, under B. N. A. Union Act..... 4-14

FREE GOODS. *See* Customs.....148 &c.
French language may be used in Parliament..... 30

Digitized by Google

PAGES.

GOVERNOR GENERAL and Privy Council. *See* B. N. A. Act 1867. 5
salary of..... 25
Grand Trunk Railway arrangements Act of 1862, amended..... 311

HABEAS CORPUS, suspension of in cases of lawless invasion, &c. 289
House of Commons, constitution, qualification of members, &c..... 9
duration of..... 12
representation in..... 10–12

INDEMNITY TO MEMBERS OF BOTH HOUSES..... 67
Inland Revenue, Act respecting, viz :—
Repeal of former Acts..... 156
Interpretation and definition of terms..... 157
Licenses, for business subject to excise, conditions of, &c... 161
Duties payable on Licenses..... 167
Duties of excise, on spirits, malt, beer, and manufactured tobacco..... 168
Obligations of persons holding licenses..... 169
Designation of apartments, &c..... 70
Books, accounts and papers..... 17
Clauses having special reference to distilleries..... 173
to malt-houses and malting 180
to tobacco manufacturers.. 184
Time and form of returns, and payment of duties..... 185
Bonding and warehousing goods subject to excise..... 189
Permits and removal of spirits..... 192
Regulations by order in Council..... 193
Officers of excise, their powers and duties..... 194
Penalties for offences against the Act..... 197
Protection of officers..... 205
Recovery and application of duties and penalties..... 206
Provision as to vine-growers association..... 211
Intercolonial Railway, provisions in Union Act..... 32
Imperial Act respecting loan for, &c..... 43
Intercolonial Railway, Act respecting, viz:—
Termini, guage, commissioners, &c..... 278
Powers of Commissioners for construction..... 279
Reference to Provincial arbitrators..... 280
Contractors and contracts, Members of Parliament not to be. 280
Salaries, working completed portions, &c..... 281
Carriage of H. M. forces, &c., loan with Imperial guarantee.. 281
Further loan without Imperial guarantee, accounts..... 282
Interest, Parliament to make laws respecting..... 20
Interpretation of Statutes of Canada. *See* Statutes..... 57
Invasion, and levying war on H. M. for preventing..... 289

JUDICATURE, provisions respecting under Union Act..... 24
Lawless aggression, Act to protect Canada from,..... 283
Legislative powers, division of between Parliament of Canada and the Provincial Legislatures.....19 to 22

Digitized by Google

PAGES.
Legislative authority, under B. N. A. Union Act, Canada..... 6
for each Province.....15, 16 &c.
Licenses for business subject to excise. *See* Inland Revenue 161
Lieutenant Governors, appointment of, &c..... 14
Loans on credit of Con. Rev. Fund, &c., authorized..... 71
Lumber duties reserved to New Brunswick 28

MAILS AND MAIL CONTRACTS. *See* Postal Service..... 235
Malt, duty of excise on. *See* Inland Revenue..... 168
Members of Senate and of Commons, indemnity to 67
Merchant Shipping Act of 1854, Act amending it, viz:
Medicines and medical stores 47
Seamen's expenses during illness 50
Seamen to be allowed certain space..... 51
Inspection of Seamen, offences, &c. 52
Money votes, provisions respecting,..... 13

NEW BRUNSWICK, Electoral divisions of..... 10
Newspapers, postage on. *See* Postal Service.. 224
Notes, promissory, and bills, duty on..... 211
Nova Scotia, Electoral divisions of 10

OFFICE HOLDERS, who may or may not sit in House of Commons 17
Ontario, (Province) Electoral divisions of.....10, 33

Parliament of Canada exclusive powers of..... 19
Penitentiary for Ontario and Quebec..... 31
Postal service, Act respecting, viz :—
Preliminary provisions and interpretation..... 217
Existing officers, contracts, &c., continued..... 219
Revenue management Act to apply..... 220
Organization and general provisions..... 220
Duties and powers of Postmaster General..... 221
And of other officers, and remuneration..... 223
Rates of postage and exemptions..... 224
Payment of Postage..... 226
Ship letters..... 227
Exclusive privilege of Postmaster General and exceptions.. 227
Branch offices and delivery in cities..... 228
Parcel Post,—Franking and free mail matter..... 229
Property in letters and mailable matter..... 230
Dead letters..... 231
Letters containing contraband goods..... 231
Tolls and ferries..... 232
U. S. mails passing through Canada..... 232
Postmasters..... 233
Mail contracts and contractors..... 235
Post Office Savings Banks..... 237
Postmaster General's reports..... 241
Offences and penalties..... 243
Procedure, Civil and Criminal..... 248
Protection of officers and commencement of act..... 251

Digitized by Google

PAGES.

Privy Council, constituted 5
Proclamations, provisions respecting 31
Promissory notes and bills of exchange and duty on, viz :—
Instruments liable, and rates and exemptions 211
How paid, sale of stamps, &c 213
Penalties, and provisions respecting them 214
Forging stamps, &c., penalty for 216
Provinces, debts, and property of, respectively ..... 25, 26, &c.
Allowances to from Canada 27
Provincial legislatures, exclusive powers of 21
Public accounts, accountants and audit, Act respecting 73
Collection and management of the Revenue 73
Board of Audit, powers and duties 77
Special duties of Auditor 81
Liability of public accountants and Revenue officers 82
Miscellaneous provisions 86
Remitting duties, forfeitures 87
Public property, division of under Union Act 26, 27, 31
Public Works, assigned to Canada, Schedule of 40
Property, to belong to Quebec and Ontario conjointly 40
Public works, Act respecting, viz :—
Department organized, powers and duties of 258
What works shall be under it 259
Existing contracts, continued 260
Property vested in the Crown, under control of department. 261
Payments for works, attesting accounts, &c 261
Annual report of Minister, tenders, security, &c 262
Power to take lands, and proceedings in such case 262
Official arbitrators, and cases to be referred to them 265
Powers of arbitrators and proceedings before them 267
Works for the defence of Canada 269
Sale or transfer of public works to local authorities, &c 271
Tolls on public works 273
Regulations for use of public works 275

Quebec, (Province) Electoral divisions of 10
Quorum of Senate and Commons 9, 12

RECORDS, division of, in Ontario and Quebec 32
Representation, and decenial adjustment of 9–12
Revenue, debts, assets, taxation, under Union Act 25
Revenue, collection and management of. *See* Public accounts 73
Royal assent to Bills, reservation, disallowance, &c 13

ST. LAWRENCE and Ottawa Railway Company, incorporated, &c. 314
Seats of Government 6, 15
Senate, constitution, qualification of members, &c 7
Senators not to sit in the House of Commons 39
and Members of House of Commons, indemnity to 67
Separate Schools. *See* Education 23
Ship letters. *See* Postal Service 227

Digitized by Google

PAGES.

Smuggling and offences connected therewith, 116, &c. *And see* Inland Revenue.
Speaker of Senate, appointment of, &c 9
House of Commons and Local Assemblies, provisions respecting 11, 18
of House of Commons, Act respecting 66
Speakers of both Houses, Salaries of 69
Spirits, duties of excise on, &c. *See* Inland Revenue 168
Statutes of Canada, Act respecting, viz:
Form of enacting 57
Interpretation of words, &c., used in ..... 57 to 64
Printing and distribution of ..... 64 to 66
Supplies, from 1st July, 1867, to 31st March, 1868, and loan 70

TARIFF of duties of Customs, free goods, &c 146
Taxation, powers of Parliament and of Provincial Legislatures 19, 21
Tobacco manufactured, duties of excise, on. *See* Inland Revenue .. 168
Townships in Province of Quebec, how constituted 32
Treason, habeas corpus suspended in certain cases of 289
Treaty obligations, to be observed by Canada 29

UNIFORMITY of laws of property and civil rights in Ontario, Nova Scotia and New Brunswick, provision for effecting 23
Union of the Maritime Provinces with Canada. *See* British North America Act, 1867 ..... 4, &c.

VACANCIES IN HOUSE OF COMMONS, how filled 11

WAREHOUSE RECEIPTS, &c., Banks and others may advance upon 253
Warehousing and warehousing ports. *See* Customs 110
" " *See* Inland Revenue 189

Digitized by Google

Digitized by Google

Digitized by Google

Digitized by Google

LITTAUER LIBRARY
HARVARD UNIVERSITY
RETURN THIS BOOK
BEFORE 10 A.M. ON
DATE DUE.

APR 3 1953

Digitized by Google

Digitized by Google